

By: Hall

S.B. No. 1752

A BILL TO BE ENTITLED

AN ACT

relating to the generation and transmission of electricity.

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

SECTION 1. Subchapter A, Chapter 312, Tax Code, is amended by adding Section 312.0022 to read as follows:

Sec. 312.0022. PROHIBITION ON ABATEMENT OF TAXES ON CERTAIN ELECTRIC GENERATING FACILITY PROPERTY. (a) In this section, "electric generating facility" means an electric generating facility described by Section 39.166(a), Utilities Code.

(b) The governing body of a taxing unit may not enter into an agreement under this chapter to exempt from taxation a portion of the value of real property on which an electric generating facility is located or is planned to be located during the term of the agreement, or of tangible personal property that is located or is planned to be located on the real property during that term.

SECTION 2. Section 36.053, Utilities Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Subsection (d), after September 1, 2023, the commission may not authorize the recovery in the rate base of an electric utility or a transmission and distribution utility of investments made for transmission or transmission-related facilities in a competitive renewable energy zone.

SECTION 3. Section 39.001, Utilities Code, is amended by amending Subsection (a) and adding Subsection (d-1) to read as

1 follows:

2 (a) The legislature finds that the production and sale of
3 electricity is not a monopoly warranting regulation of rates,
4 operations, and services and that the public interest in
5 competitive electric markets requires that, except for
6 transmission and distribution services and for the recovery of
7 stranded costs, generation capacity and electric services and their
8 prices should be determined by customer choices and the normal
9 forces of competition. As a result, this chapter is enacted to
10 protect the public interest during the transition to and in the
11 establishment of a fully competitive electric power industry.

12 (d-1) The legislature finds that the amount of installed
13 generation capacity is best determined by investor, generator, and
14 customer choices through the normal forces of competition. As a
15 result, except as provided by Sections 39.152-39.158 and
16 notwithstanding any other law, a regulatory authority may not
17 mandate or otherwise regulate the amount of installed generation
18 capacity or require a surplus or reserve of installed generation
19 capacity above actual or forecasted levels of load.

20 SECTION 4. Subchapter D, Chapter 39, Utilities Code, is
21 amended by adding Section 39.166 to read as follows:

22 Sec. 39.166. PARTICIPATION IN MARKET BY CERTAIN GENERATING
23 FACILITIES. (a) The commission by rule shall require each electric
24 cooperative, power generation company, or exempt wholesale
25 generator that sells electric energy at wholesale in the ERCOT
26 power region and has received a federal tax credit provided under 26
27 U.S.C. Section 45 or 48 to notify the commission of the tax credit.

1 (b) The commission and the independent organization
2 certified under Section 39.151 for the ERCOT power region shall
3 adopt rules and protocols that:

4 (1) prohibit an entity described by Subsection (a)
5 from offering electric energy for wholesale in the ERCOT power
6 region at a price below \$27.50 per megawatt hour;

7 (2) prohibit an entity described by Subsection (a)
8 from being reimbursed for the costs of interconnecting a new
9 generation facility; and

10 (3) notwithstanding Chapter 35, incorporate marginal
11 losses in locational marginal pricing for electric energy sold from
12 a generating facility by an entity described by Subsection (a).

13 (c) The commission by rule shall require the independent
14 organization certified under Section 39.151 for the ERCOT power
15 region to:

16 (1) impose a periodic fee on each entity described by
17 Subsection (a) that uses transmission service in a competitive
18 renewable energy zone; and

19 (2) regularly disburse the fee revenue to each
20 electric utility or transmission and distribution utility
21 described by Section 36.053(e) to provide for the recovery of the
22 utility's transmission facility investment described by Section
23 36.053(e).

24 (d) The disbursements described by Subsection (c)(2) must
25 be made on a pro rata basis according to the amount of investment to
26 be recovered.

27 SECTION 5. Section 39.904, Utilities Code, is amended by

1 amending Subsections (a), (b), (c), (h), (j), and (o) and adding
2 Subsections (h-1) and (h-2) to read as follows:

3 (a) It is the intent of the legislature that by January 1,
4 2015, an additional 5,000 megawatts of generating capacity from
5 renewable energy technologies will have been installed in this
6 state. The cumulative installed renewable capacity in this state
7 shall total 5,880 megawatts by [~~January 1, 2015, and the commission~~
8 ~~shall establish a target of 10,000 megawatts of installed renewable~~
9 ~~capacity by January 1, 2025. The cumulative installed renewable~~
10 ~~capacity in this state shall total 2,280 megawatts by January 1,~~
11 ~~2007, 3,272 megawatts by January 1, 2009, 4,264 megawatts by~~
12 ~~January 1, 2011, 5,256 megawatts by January 1, 2013, and 5,880~~
13 ~~megawatts by] January 1, 2015. Of the renewable energy technology
14 generating capacity installed to meet the goal of this subsection
15 after September 1, 2005, the commission shall establish a target of
16 having at least 500 megawatts of capacity from a renewable energy
17 technology other than a source using wind energy. The goal and
18 targets established under this subsection terminate on December 31,
19 2023.~~

20 (b) The commission shall establish a renewable energy
21 credits trading program. Before December 31, 2023, a [Any] retail
22 electric provider, municipally owned utility, or electric
23 cooperative that does not satisfy the requirements of Subsection
24 (a) by directly owning or purchasing capacity using renewable
25 energy technologies shall purchase sufficient renewable energy
26 credits to satisfy the requirements by holding renewable energy
27 credits in lieu of capacity from renewable energy technologies. On

1 or after December 31, 2023, a retail electric provider shall
2 purchase sufficient renewable energy credits to verify any
3 marketing claims the provider makes related to the content of
4 renewable energy, as determined by the commission.

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

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

14 (2) specify reasonable performance standards that all
15 renewable capacity additions must meet to earn renewable energy
16 credits [~~count against the requirement prescribed by Subsection~~
17 ~~(a)~~] and that:

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

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

26 (h) The commission, in consultation with the independent
27 organization certified under Section 39.151 for the ERCOT power

1 region, shall plan for transmission needs related to the
2 incorporation of renewable energy in a manner consistent with the
3 planning process for other types of generation resources, including
4 by considering in the planning process [~~In considering an~~
5 ~~application for a certificate of public convenience and necessity~~
6 ~~for a transmission project intended to serve a competitive~~
7 ~~renewable energy zone, the commission is not required to consider]~~
8 the factors provided by Section 37.056 [~~Sections 37.056(c)(1) and~~
9 ~~(2)~~].

10 (h-1) The commission may not designate a new competitive
11 renewable energy zone after September 1, 2023.

12 (h-2) After September 1, 2023, the commission may not
13 approve additional transmission facilities in a previously
14 approved competitive renewable energy zone unless the facilities
15 have been evaluated through the planning process described by
16 Subsection (h).

17 (j) The commission, after consultation with each
18 appropriate independent organization, electric reliability
19 council, or regional transmission organization, shall file a report
20 with the legislature not later than December 31 of each
21 even-numbered year. The report must include[+]

22 [~~(1) an evaluation of the commission's implementation~~
23 ~~of competitive renewable energy zones,~~

24 [~~(2) the estimated cost of transmission service~~
25 ~~improvements needed for each competitive renewable energy zone, and~~

26 [~~(3)~~] an evaluation of the effects that additional
27 renewable generation has on system reliability and on the cost of

1 alternatives to mitigate the effects.

2 (o) The commission may establish an alternative compliance
3 payment to meet the goal established by Subsection (a) before its
4 termination. An entity that has a renewable energy purchase
5 requirement under this section may elect to pay the alternative
6 compliance payment instead of applying renewable energy credits
7 toward the satisfaction of the entity's obligation under this
8 section. The commission may establish a separate alternative
9 compliance payment for the goal of 500 megawatts of capacity from
10 renewable energy technologies other than wind energy that an entity
11 may use until January 1, 2024, to meet that goal. The alternative
12 compliance payment for a renewable energy purchase requirement that
13 could be satisfied with a renewable energy credit from wind energy
14 may not be less than \$2.50 per credit or greater than \$20 per
15 credit. Prior to September 1, 2009, an alternative compliance
16 payment under this subsection may not be set above \$5 per credit.
17 In implementing this subsection, the commission shall consider:

18 (1) the effect of renewable energy credit prices on
19 retail competition;

20 (2) the effect of renewable energy credit prices on
21 electric rates;

22 (3) the effect of the alternative compliance payment
23 level on the renewable energy credit market; and

24 (4) any other factors necessary to ensure the
25 continued development of the renewable energy industry in this
26 state while protecting ratepayers from unnecessary rate increases.

27 SECTION 6. Section [39.159](#), Utilities Code, as added by

1 Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular
2 Session, 2021, is repealed.

3 SECTION 7. Section 312.0022, Tax Code, as added by this Act,
4 applies only to an agreement entered into under Chapter 312, Tax
5 Code, on or after the effective date of this Act.

6 SECTION 8. This Act takes effect September 1, 2023.