SUBJECT: Creating a distributed and wholesale solar generation incentive program

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 7 ayes — Keffer, Crabb, Farabee, Gonzalez Toureilles, Hardcastle, Rios Ybarra, Strama

1 nay — Craddick

1 absent — Crownover

SENATE VOTE: On final passage, April 21 — 26-4 (Nelson, Nichols, Ogden, Patrick)

WITNESSES: For — David Power, Public Citizen; (*Registered, but did not testify:* Sabrina Brown, Dow; Mark Bruce, Southwest Wind Power, Entegrity Wind Systems, Bergey Wind Power; Paul Cauduro, Texas Association of Builders; Debrah Dubay, Dubay Communications; Chris Hughes, Solar Alliance; Suzi McClellan, Good Company Associates; Colin Meehan, Environmental Defense Fund; Luke Metzger, Environment Texas; Bee Moorhead, Texas Impact; Cyrus Reed, Lone Star Chapter, Sierra Club; Patrick Reinhart, Ameresco; Carl Ritchie, TXU Energy; Susan Ross, Clean Energy Associates, Texas Renewable Energy Industries Association, Simple Solar, and Texas Solar Energy Industries Association; Steve Taylor, Applied Materials)

Against — Phillip Oldham, Texas Association of Manufacturers

On — Michael Jewell, Association of Electric Companies of Texas

DIGEST: CSSB 545 would amend the Utilities Code by requiring the PUC to establish a solar generation incentive program.

Solar generation incentive program. The PUC, by rule, would be required to establish and oversee implementation of a solar generation incentive program to be implemented by electric utilities for residential and commercial customers. The PUC also would establish procedures to achieve the goal of installing at least 3,000 megawatts of solar generation

capacity in this state by 2020, at least 1,000 megawatts of which would be distributed renewable generation.

The PUC, in consultation with the Electric Reliability Council of Texas (ERCOT), would be required to prepare and make available a study indicating geographic areas where utility scale non-wind renewable energy could be located with minimal additional transmission facilities.

Cost recovery by electric utilities. Electric utilities would recover their costs through a non-bypassable fee of $0.000650 per kilowatt hour for each residential or commercial customer meter, and $40 per month for each industrial customer meter.

Electric utilities would not be able to assess the fees five years after the date the program was established by PUC rule. Electric utilities could use 2.5 percent of the fees collected for administrative expenses. The rest would have to be used for the program.

Five-year check point. The PUC could extend the fees and program for five more years if it found that a substantial amount of manufacturing of solar generation products had located in Texas after the initial five-year program and that the extension of the fees did not present an undue burden to customers.

Rebates for installation of solar generation. The PUC would set rebate amounts for the installation of solar generation and would periodically adjust the rebate amounts to maximize the amount of solar generation installed. The rebate amounts would be reduced by at least 5 percent each year. Solar generation manufactured in Texas would have up to a 20 percent higher rebate amount than other solar generation.

The initial rebate amounts would be :

- $2.40 per watt for installation of distributed renewable generation with a capacity of not more than 10 kilowatts;
- $1.50 per watt for installation of distributed renewable generation with a capacity of 10 to 2,000 kilowatts; and
- $1 per watt for installation of wholesale or industrial generation.

If the demand for rebates exceeded the money available, the PUC would consider a variety of factors in determining which projects received

rebates. The PUC could appoint an advisory committee to assist in evaluating proposals, but the members of the committee could not have a financial interest in any of the proposals. The PUC would be required to release a complete record of the proposals and the evaluation of the factors required to be considered.

Solar power in public schools. For the first two years of the program, 25 percent of the rebates would be reserved for use by public school districts. The interested districts would have to obtain funding for the balance of the installation cost within 90 days of filing an application. If the 25 percent reservation was fully used before the end of the two years, the PUC could continue to reserve 25 percent of the available rebates for another two years.

Revolving loan program. The State Energy Conservation Office (SECO) in the Comptroller's Office would be required to establish a revolving loan program patterned after the LoanSTAR revolving loan program to provide loans to pay the costs of installing photovoltaic solar panels on and associated energy efficiency improvements to public school buildings and buildings owned by religious organizations. SECO would be required to allocate at least $75 million from money available under the American Recovery and Reinvestment Act of 2009, subject to federal approval, for the purposes of the program.

SECO, by rule, would establish the terms of the loans, including the interest rate. A program loan would have to be paid over a 15-year term.

Each school district would have the opportunity to apply for a loan to install photovoltaic solar panels and associated energy efficiency improvements on at least one school building of the school district's choice. SECO, by rule, would establish a procedure for determining which school district or religious organization buildings qualified.

Each school district that received a loan would be required to pay for the loan primarily from the amount budgeted for the energy costs of the school where the solar panels were installed. The school district could make additional payments on a loan from money rebated to it as compensation for electric energy generated by the solar panels or money received as a gift or grant for the purpose of paying the loan.

Authorization to lease generation or sell output. CSSB 545 would authorize a retail electric provider, or any other person who owned distributed solar generation, to enter into a contract with the retail customer on whose property the generation was located to lease the generation or sell the output. The owner of the generation would not be considered an electric utility and would not be required to register with the PUC as a power generation company or self generator, unless the PUC determined it was necessary to maintain the reliability of the distribution grid.

The PUC could establish appropriate reporting requirements for trading renewable energy credits.

No more than 25 percent of the annual program budget could be allocated to rebates awarded to retail electric providers for distributed renewable generation installed on retail customers' property.

Regulation of solar energy devices by property owners' association. A property owners' association could not prohibit or restrict a property owner from installing a solar energy device, except in certain instances provided in the bill. This would apply to a deed restriction enacted on, before, or after the effective date of the bill.

Solar panel option required in certain subdivisions. A builder who entered into a contract for construction of a new home in a subdivision that contained more than 50 lots on which the builder had built or was offering to build new homes would be required to offer the homebuyer at least one plan in the subdivision on which the homebuyer could purchase an option to install a solar energy device on the home for heating or cooling or for the production of power.

Electric cooperatives (co-ops) and municipally owned utilities (MOUs). By September 1, 2012, a municipally owned utility or electric cooperative with retail sales of more than 500,000 megawatt hours in 2007 would have to report annually to SECO information regarding their efforts related to solar generation capacity.

A governing body of a co-op or municipally owned utility would be allowed to adopt rules, programs, and incentives to encourage or provide for the installation of more solar generation capacity than the established goals.

A co-op or MOU could recover costs through a non-bypassable fee consistent with that of electric utilities or another cost recovery mechanism determined by their governing bodies.

Effective date. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS SAY:

CSSB 545 would establish a solar generation incentive program that would make it easier and cheaper for Texans to bring solar energy into homes and businesses. It also would allow Texas to become more energy independent and meet the renewable energy goals.

This bill would move Texas to the forefront of solar energy generation in the United States. Texas has already led the nation in wind power generation, and this bill would allow Texas to lead the way in solar power generation as well. The current wind power infrastructure could work well with new solar power generation, and the combination of solar and wind could bring a new energy boom to West Texas.

Concerns that it could be dangerous for Texas to be an early leader in the solar industry should not delay these efforts. If everyone waited, the industry would never develop. The early leaders have the opportunity to become the manufacturing clusters that create jobs for Texans. CSSB 545 would send a signal that Texas was the place to do business, especially with the "made in Texas" provision to encourage the installation of solar generation manufactured in Texas by offering a larger rebate.

Also, the bill contains a five-year check point that would help avoid unintended consequences and would provide an opportunity to make adjustments as the industry evolved.

OPPONENTS SAY:

Electricity customers would pay for this program through a surcharge on electricity bills. The money from the surcharge could be as much as $100 million a year for five years. Adding a cost to the consumer, particularly business consumers, means less money for them to spend to do the things they need to do to grow their businesses. Everyone would have to pay the surcharge, but only the customers that participated in the program would receive any benefit.

Solar energy is only just now becoming a viable option for energy generation. It could be dangerous for Texas to be the early leader in an industry that is not fully developed. This bill would encourage school districts and Texas citizens to be the early adopters of a technology that is still in its infancy, which could result in unknown and intended consequences. Texas jumped in head first with ethanol and it ultimately caused a number of problems for the state.

Creating a solar energy incentive program would jump-start that industry, and it is questionable public policy for the government to make decisions that would affect a market in that way, essentially picking winners and losers.

NOTES:

The House committee substitute differs from the Senate-passed version by providing a goal of 3,000 megawatts of solar generation capacity by 2020; removing provisions regarding net metering and pricing; and including religious organizations in the revolving loan program.

According to the fiscal note, there would be an indeterminate revenue gain to the state because the fee on electric customers for the distributed solar generation incentive program has not yet been established by the PUC. Also, there would be an indeterminate fiscal impact to the state from the amount of interest generated by the LoanSTAR loan program because the terms and amount of the loans are unknown.