HOUSE
RESEARCH
ORGANIZATION bill analysis 5/12/2011

HB 519
Turner, Miles
(CSHB 519 by Oliveira)

SUBJECT: Creating an independent fund to assist low-income electric customers

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Cook, Menendez, Craddick, Frullo, Harless, Hilderbran, Huberty, Oliveira, Smithee, Solomons, Turner

0 nays

2 absent — Gallego, Geren

WITNESSES: For — Carol Biedrzycki, Texas Ratepayers Organization to Save Energy (Texas ROSE); John W. Fainter Jr., Association of Electric Companies of Texas, Inc.; Joshua Houston, Texas Impact; *(Registered, but did not testify*: Yannis Banks, Texas NAACP; Chad Blevins, Public Citizen of Texas; Lanetta Cooper, Texas Legal Service Center; Carlos Higgins, Texas Silver-Haired Legislature; Tim Morstad, AARP; Anne Olson, Texas Baptist Christian Life Commission; Cyrus Reed, Lone Star Chapter, Sierra Club; Stella Rodriguez, Texas Association of Community Action Agencies; Alejandro Savransky, Environment Texas; David Weinberg, Texas League of Conservation Voters)

Against — *(Registered, but did not testify*: MerryLynn Gerstenschlager, Texas Eagle Forum; Michael Quinn Sullivan, Texans for Fiscal Responsibility)

BACKGROUND: The System Benefit Fund (SBF), administered by the Public Utility Commission (PUC), was created to provide discounts to eligible electric ratepayers in areas affected by electric retail competition. The program also provides one-time bill payments for seriously ill or disabled low-income electricity customers who have been threatened with disconnection for nonpayment. In addition, the SBF has funded customer education and efficiency programs and has helped to offset school funding losses stemming from electric generation facility restructuring.

In fiscal 2004-05 and 2006-07, the Legislature did not allocate SBF funds for assistance to low-income electric customers and held the money for certification of the budget because of projected budget shortfalls.

The House engrossed version of HB 1 by Pitts would allocate about $169 million during the fiscal 2012-13 biennium for the SBF.

DIGEST:

CSHB 519 would create a Low-Income Electric Customers (LIEC) Program Fund as an independently administered trust fund outside of the appropriations process. The bill would allocate up to 63 cents of the assessment on electric ratepayers for the LIEC to assist low-income ratepayers and fund weatherization programs.

The transmission and distribution utilities would select the LIEC administration, subject to PUC rules and oversight. The PUC would regulate the percentage of the available funds to be used for administrative expenses. The commission would have the power to require an annual audit and would be able to examine financial records and to investigate fund-related expenditures or expenses.

The PUC would be required to impose up to a 63-cent-per-megawatt-hour assessment, and those funds would be deposited into the LIEC account. The bill also would require that any interest earned on the deposited assessments be credited to LIEC fund.

The LIEC administrator would be required to allocate:

- 85 percent of available LIEC funds to provide discounts between 10 percent and 20 percent for low-income retail electric customers;
- 4 percent of the available funds for bill payment assistance to critical care residential customers; and
- 11 percent for weatherization programs for low-income electric customers.

CSHB 519 would require that a discount of at least 10 percent be available during every month of the year and that the rate be increased to 20 percent if funds were available. The bill would allow for a discount of less than 10 percent if sufficient funds had not been collected by the assessment, but it would require a 10-percent discount if anticipated deposits would be sufficient to pay a 10-percent discount.

CSHB 519 also would require PUC to adopt rules on providing discounts to those receiving reduced-rate telecommunication services and for those determined to be critical care residential customers.

The bill would require that the LIEC program assessments be collected and low-income discounts be provided by municipally owned electric utilities or electric cooperatives that opt into retail competition for electric service.

CSHB 519 would amend Utility Code, sec. 39.903(c), to reduce the allocation of the nonbypassable fee to the existing SBF from 65 cents to 2 cents per megawatt hour. The PUC would continue to use those funds for customer education programs and administration costs.

The PUC would be required to adopt rules for administering the LIEC and remaining SBF programs by September 1, 2013. The bill would take effect on September 1, 2011.

SUPPORTERS SAY:

CSHB 519 would ensure that all money collected from ratepayers would be used as it was intended, to help low-income Texans to pay their utility bills and remove the possibility of using the money for budget certification. A separate trust fund administered by the "wires companies" and subject to PUC oversight would put these funds outside of the appropriations process and would help Texas live up to commitments made when electric restructuring was authorized in 1999.

CSHB 519 would address the ongoing need to help low-income Texas electricity customers that, unfortunately, seems likely to continue. SBF helped hundreds of thousands of households before the eligibility requirements were tightened. Unfortunately, the numbers of those qualifying have increased during the ongoing economic downturn.

The bill would provide for a greater level of benefits and would expand those eligible for the program. LIEC assistance would be mandated throughout the year rather than part of the year as with the SBF. It also would expand automatic eligibility to those already qualifying for "lifeline" telephone rates and would help ensure assistance to those with life-threatening illnesses and medical conditions.

The transmission and distribution utilities are expected to be good stewards of the money dedicated to the LIEC program. The PUC would continue to establish the rules for the programs and would have oversight of LIEC operations, including power to audit and investigate use of LIEC funds. Currently, the PUC contracts with an outside administrator to administer the current low-income discount program. The bill would keep the same administrative procedures in place for retail electric providers and for transmission and distribution and would not increase costs to electricity customers.

CSHB 519 would apply only to assessments on electric rates collected after September 1, 2013, and would have no effect on the upcoming biennium. There would still be money left in the existing SBF for certification of the fiscal 2012-13 budget, which would allow funding for other programs, such as Medicaid. In these tough economic times, the Legislature, like Texas families, must make difficult choices in allocating available funding. Delaying the change until 2013 would help legislators provide a reasonable balance in assisting low-income citizens with their utility bills and providing other much-needed state programs.

CSHB 519 would create a form of self-leveling mechanism where expenditures equal revenues to ensure that the money collected from electric ratepayers would be used for its intended purpose. LIEC would have strict requirements on the allocation for low-income discounts, critical care discounts, and weatherization programs and could allow funding for no other purposes. Other restrictions would provide that the discounts be reduced if funding was not available.

While it is unfortunate that existing SBF funds could not be used for their intended purposes, the current budget crisis required that the Legislature identify all available money to balance the budget. If it had not been for SBF and other dedicated funds, the Legislature would still be looking for money to certify the budget because of how much the state depends on these balances. Once the current fiscal storm is past, the Legislature can examine the larger policy implications of creating dedicated funds.

CSHB 519 would again give priority to weatherization programs reduced when SBF money first was diverted for other budget items. The bill could provide predictable and secure funding for future weatherization assistance. Simple repairs and replacement of older appliances in low-income households yield significant returns in energy savings and lower utility bills.

The bill would keep customer education and market oversight programs under the control of the PUC and would provide sufficient funding for these needed programs.

OPPONENTS SAY:

Assessing a fee on electric bills to run a social service that redistributes wealth among utility customers is questionable public policy. The SBF was intended only to help ease the transition to electric retail competition, but it has continued for more than a dozen years as essentially a social program. All electric ratepayers, including low-income Texans, should shop for the lowest rates in the marketplace. The entire program should be ended and the money returned to the ratepayers.

The PUC, and by extension the Legislature, should continue to administer the program. Adding the transmission and distribution utilities would move the program further from direct public accountability.

While CSHB 519 would create a mechanism to ensure that funding was used for its intended purpose, there is still a need to provide for truth in taxation and in transparency in the use of dedicated funds. The bill would not prevent the tax and divert strategy being used for SBF funds in the current biennium.

OTHER OPPONENTS SAY:

CSHB 519 should require the SBF balance existing at the end of fiscal 2012-13 be transferred to the LEIC program for distribution. The bill should not leave money in a dedicated account to be raided or used for certification by future legislatures.

NOTES:

The companion bill, SB 319 by Carona, referred to the Senate Finance Committee on February 2.