

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1152
By: Bivins
Natural Resources
4/1/1999
Committee Report (Substituted)

DIGEST

Currently, Texas law does not authorize the state to obtain electricity and to sell or convey that electricity. This bill would authorize the state to obtain electricity and to sell or convey that electricity.

PURPOSE

As proposed, C.S.S.B. 1152 authorizes the state to obtain electricity and to sell or convey that electricity.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 31.002(1), Utilities Code, to redefine “electric utility.”

SECTION 2. Amends Chapter 35, Utilities Code, by adding Subchapter D, as follows:

SUBCHAPTER D. STATE AUTHORITY TO SELL OR CONVEY POWER

Sec. 35.101. DEFINITIONS. Defines “commissioner” and “public retail customer.”

Sec. 35.102. STATE AUTHORITY TO SELL OR CONVEY POWER. Authorizes the commissioner of the General Land Office (commissioner), acting on behalf of the state, to sell or otherwise convey power generated from royalties taken in kind, as provided by Sections 52.133(f), 53.026 and 53.077 of the Natural Resources Code, directly to a public retail customer regardless of whether the public retail customer is also a wholesale customer.

Sec. 35.103. ACCESS TO TRANSMISSION AND DISTRIBUTION SYSTEMS; RATES. Entitles the state to have access to all transmission and distribution systems of all electric utilities, municipally owned utilities, and electric cooperative corporations that serve public retail customers, except as provided in Section 35.104. Requires an entity described by Subsection (a) to provide any utility service, including transmission, distribution, and other services, to the state at the lowest applicable rate charged for similar services to other customers.

Sec. 35.104. RETAIL TRANSACTION LIMIT. Provides that Sections 35.102 and 35.103 do not apply to the rates, retail service area, facilities, or public retail customers of a municipally owned electric utility or an electric cooperative that has not adopted retail competition. Prohibits the state from engaging in retail transactions that exceed 2.5 percent of a retail electric utility’s total retail load in a service area, in a certificated service area of an electric utility that is not an electric cooperative.

Sec. 35.105. COSTS OF SERVING STATE AGENCY. Prohibits an electric utility, municipally owned utility, or electric cooperative corporation from recovering from a residential customer or from any other customer class the assigned and allocated costs of serving a state agency, institution of higher education, public school district, or political subdivision of this state. Requires the rates of a municipally owned utility or electric cooperative to be set in accordance with the applicable provisions of this title.

Sec. 35.106. WHOLESALE CUSTOMERS. Provides that this subchapter does not prevent the

commissioner, acting on behalf of this state, from registering as a power marketer.

Sec. 35.107. ACCESS TO POWER GENERATION. Prohibits a gas utility or a municipally owned utility from refusing to provide gas service to an electric utility generating facility, if the purpose of the service is to generate power for public retail customers by the state or an agency of this state, if pipeline capacity is available on an existing facility of a gas utility or municipally owned utility.

SECTION 3. Amends Section 52.133, Natural Resources Code, by amending Subsections (a), (c), and (d) and adding Subsection (f), to authorize the commissioner, the owner of the soil under Subchapter F, or the commissioner, acting on the behalf of and at the direction of an owner of the soil under Subchapter F, the school land board (board), or a board for lease, or at the direction of the Board for Lease of University Lands, to negotiate and execute contracts or any other instruments or agreements necessary to dispose of or enhance their portion of the royalty taken in kind, including contracts for sale, marketing, transportation, including purchase and exchange agreements necessary to transport gas, and storage and including insurance contracts or other agreements, to secure or guarantee payment. Authorizes 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, to 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, including electricity. Provides that for the purposes of this section, royalty taken in kind includes oil and gas sold or marketed by the commissioner that has been produced on state mineral lands or from the first three miles of federal waters adjacent to the state boundaries, also known as the 8g zone. Deletes text providing that this section does not apply to or have any effect on the Board for Lease of University Lands or any lease executed on university land. Makes conforming changes.

SECTION 4. Amends Section 53.026, Natural Resources Code, to authorize the commissioner or the commissioner acting on behalf of and at the direction of the board or a board for lease to 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, including electricity. Makes conforming changes.

SECTION 5. Amends Section 53.077, Natural Resources Code, to makes conforming changes.

SECTION 6. Provides that to the extent of any conflict between this Act and S.B. No. 7, Acts of the 76th Legislature, Regular Session, 1999, S.B. No. 7 controls, regardless of date of enactment.

SECTION 7. Effective date: September 1, 1999.

SECTION 8. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 2.

Amends Section 35.102, Utilities Code, to authorize the commissioner, acting on behalf of the state, to sell or otherwise convey power generated from royalties taken in kind, as provided by Sections 52.133(f), 53.026 and 53.077 of the Natural Resources Code, directly to a public retail customer regardless of whether the public retail customer is also a wholesale customer.

Amends Section 35.103, Utilities Code, to entitle the state to have access to all transmission and distribution systems of all electric utilities, municipally owned utilities, and electric cooperative corporations that serve public retail customers, except as provided in Section 35.104.

Amends Section 35.104, Utilities Code, to provide that Sections 35.102 and 35.103 do not apply to the rates, retail service area, facilities, or public retail customers of a municipally owned electric utility or an electric cooperative that has not adopted retail competition. Prohibits the state from engaging in retail transactions that exceed 2.5 percent of a retail electric utility's total retail load in a service area, in a certificated service area of an electric utility that is not an electric cooperative.

Amends Section 35.105, Utilities Code, to require the rates of a municipally owned utility or electric cooperative to be set in accordance with the applicable provisions of this title.

Amends Chapter 35, Utilities Code, by adding Section 35.107, regarding access to power generation.

SECTION 3.

Amends Section 52.133, Natural Resources Code, to authorize the commissioner, the owner of the soil under Subchapter F, or the commissioner, acting on the behalf of and at the direction of an owner of the soil under Subchapter F, the board, or a board for lease, or at the direction of the Board for Lease of University Lands, to negotiate and execute contracts or any other instruments or agreements necessary to dispose of or enhance their portion of the royalty taken in kind, including contracts for sale, marketing, transportation, including purchase and exchange agreements necessary to transport gas, and storage and including insurance contracts or other agreements, to secure or guarantee payment. Provides that for the purposes of this section, royalty taken in kind includes oil and gas sold or marketed by the commissioner that has been produced on state mineral lands or from the first three miles of federal waters adjacent to the state boundaries, also known as the 8g zone. Deletes text authorizing the negotiation of contracts for marketing.

SECTION 6.

Provides that to the extent of any conflict between this Act and S.B. No. 7, Acts of the 76th Legislature, Regular Session, 1999, S.B. No. 7 controls, regardless of date of enactment.

SECTIONS 7 - 8.

Redesignated from SECTIONS 6 - 7.