

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 15  
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Natural Resources  
4/11/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the state of Texas lacks a process for long-term energy planning and management of energy resources. Given the current and projected population growth, the abundance of Texas-based natural resources, and the potential for growth in multiple energy sectors, a planning process would help Texas remain a leader in exploration, production, and generation of both traditional and new, innovative sources of energy.

C.S.S.B. 15 would set up a process for strategic energy planning that would include the Texas Energy Policy Council charged with creating a statewide energy policy plan to be presented to the legislature every two years prior to the start of the legislative session. This plan would include both short and long-term considerations, take into account a variety of considerations, and recommend strategies that both preserve the environment and encourage production of safe, economically viable, reliable, market-based sources of energy.

C.S.S.B. 15 would also require the Railroad Commission of Texas to conduct a study on coal and natural gas reserves and require the Public Utility Commission to prepare a report on electric energy generation in this state, including analysis of and recommendations for how to most cost-effectively comply with environmental regulation.

Finally, this bill seeks to ensure that no one fuel source will be given a competitive advantage over another in a competitive market.

C.S.S.B. 15 amends current law relating to state energy policy and the planning of energy development and utilization.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1

SECTION 1.01. Provides that this article may be cited as the Energy Policy Act.

SECTION 1.02. Amends the Utilities Code by adding Title 6, as follows:

#### TITLE 6. ENERGY POLICY ACT

#### CHAPTER 300. STRATEGIC ENERGY PLANNING

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 300.001. PURPOSE AND FINDINGS. (a) Provides that this title is enacted to promote, in accordance with the public interest, the strategic planning of energy development, production, delivery, commercialization, and utilization in this state.

(b) Provides that the purpose of this title is to establish a statewide energy policy planning entity and process that recognizes:

- (1) public health and general welfare as a critical concern in the development of energy policies;
- (2) energy as a valuable and vital commodity in the state's economy;
- (3) protection of the environment as a major consideration in the production of energy and utilization of natural resources;
- (4) cost-effective, market-based solutions as a preferred policy for energy planning;
- (5) utilization of Texas-based resources to help provide energy security, stability, and reliability; and
- (6) the importance of portfolio diversity in promoting energy system flexibility, affordability, and efficiency.

Sec. 300.002. DEFINITIONS. Defines, in this title, "council," "office," and "plan."

Sec. 300.003. TEXAS ENERGY POLICY COUNCIL. (a) Provides that the Texas Energy Policy Council (council) is created to develop and present a statewide energy policy plan (plan) to the legislature. Requires that the plan include a 20-year planning horizon and be updated to reflect changing conditions and should be considered a living document.

(b) Provides that the council be composed of 12 members. Sets forth the 12 members of the council.

(c) Requires the governor to designate the presiding officer from among the members of the council.

(d) Provides that an appointed member of the council serves for a full planning cycle and may be reappointed at the pleasure of the appointing official.

(e) Requires the council to meet at least quarterly in even-numbered years while developing a plan for submission to the legislature. Authorizes the council to meet annually in odd-numbered years after submitting plans to the legislature.

(f) Requires the council to develop and implement policies and procedures that provide the public with reasonable opportunity to appear before the council and speak on issues under the jurisdiction of the council.

(g) Provides that the State Energy Conservation Office (SECO) is designated as the state agency responsible for administering the council. Requires staff from SECO to be tasked, as necessary, with assisting the council in carrying out its duties.

Sec. 300.004. POWERS, DUTIES, AND RESPONSIBILITIES OF COUNCIL. (a) Requires the council, in developing the plan, to:

- (1) encourage cooperation and coordination between public and private entities regarding energy usage, planning, research and development, and commercialization;
- (2) seek policies that promote a diverse portfolio of clean, reliable, and competitively priced energy sources;

- (3) promote research, pilot projects, and market-based incentives to explore and expand long-term energy options;
- (4) develop policies to prevent supply interruptions and infrastructure failure;
- (5) examine the impact on the environment of energy exploration, production, and use;
- (6) take into account the statewide and regional water planning process; and
- (7) make recommendations for increasing public knowledge of energy use issues and public awareness of the importance of more efficient consumption of energy.

(b) Requires the council to submit to the legislature the initial plan by December 1, 2012. Requires the council, thereafter, to report to the legislature by December 1 of each even-numbered year the status of the plan's implementation and make any recommendations for legislative action as necessary to implement or revise the plan. Authorizes the council to update the plan as necessary to reflect evolving conditions.

Sec. 300.005. FUELS AND TECHNOLOGIES. (a) Requires the council to consider the following fuel sources, types of generation, and innovative technologies associated with these fuels and types of generation when creating the plan. Sets forth a list of fuels, types of generation, and technologies for the council to consider.

(b) Requires the council to develop policies that ensure fuel resources available to the state are utilized in a balanced and efficient manner. Requires the council to consider the economic viability, price stability and volatility, and environmental impact of types of fuel and technology when making its recommendations.

Sec. 300.006. ENERGY EFFICIENT TECHNOLOGY. (a) Requires the council, in order to reduce the energy demand of customers in this state, to consider energy-efficient technologies when formulating the plan and include them in its recommendations. Requires energy-efficient technologies to be considered for residential, commercial, industrial, and state and local energy users, and any other user group or application the council deems appropriate.

(b) Requires the council to consider the economic viability and competitiveness of new technologies when making its recommendations.

(c) Requires the council to consider the ability of energy-efficient technologies to reduce the demand for energy and the need for additional transmission capacity in the state and to consider opportunities for reducing transmission constraints by using these technologies.

Sec. 300.007. TRANSMISSION. (a) Requires the council to consider and recommend strategies to ensure that customers in this state have access to reliable energy.

(b) Requires the council to consider transmission constraints, and make recommendations in the plan to alleviate or prevent those constraints, for the sources of energy oil and natural gas, coal and lignite, wind and solar, and electricity.

Sec. 300.008. ALTERNATIVE FUEL VEHICLES. (a) Requires the council to consider and make recommendations on strategies and incentives that promote the use of alternative fuel vehicles such as natural gas vehicles and plug-in electric vehicles.

(b) Requires the council to consider the economic feasibility of alternative fuel vehicles and infrastructure constraints and authorizes the council to make recommendations on how to incorporate and promote these vehicles as a component of the plan.

Sec. 300.009. ENVIRONMENT. (a) Requires the council, when creating the plan or in formulating recommendations, to consider the effects of energy exploration, production, and consumption on the environment.

(b) Requires the council to recommend strategies that protect and preserve the environment of the state and allow for access to and the production of safe, economically viable, and reliable sources of energy. Requires the council to consider air quality, water quality, water supply, and waste disposal.

## ARTICLE 2

SECTION 2.01. Amends Chapter 39, Utilities Code, by adding Subchapter L, as follows:

### SUBCHAPTER L. REPORT ON RESERVES AND VOLUNTARY EMISSIONS REDUCTIONS PLAN

Sec. 39.551. STATEMENT OF INTENT. Provides that it is not the intent of this subchapter to:

- (1) transfer environmental regulation from the Railroad Commission of Texas (railroad commission) or the Texas Commission on Environmental Quality (TCEQ) to the Public Utility Commission of Texas (PUC); or
- (2) reduce the competitiveness of the existing energy market in Texas by re-regulating the market or requiring the decommissioning of any lawfully operating generating plant.

Sec. 39.552. REPORT ON RESERVES. (a) Requires the railroad commission, not later than December 1, 2011, to prepare and submit to PUC a report on coal and gas reserves in this state that includes information relating to:

- (1) natural gas reserves in this state proven and probable on November 1, 2011;
- (2) estimates of the proven and probable natural gas reserves in this state for each of the next 15 years;
- (3) estimates of natural gas prices and potential price volatility for each of the next 15 years;
- (4) coal reserves in this state proven and probable on November 1, 2011;
- (5) estimates of the proven and probable coal reserves in this state for each of the next 15 years; and
- (6) estimates of coal prices and potential price volatility for each of the next 15 years.

(b) Authorizes the railroad commission to request financial information and forecasts from the comptroller of public accounts (comptroller) to assist the railroad commission in carrying out its duties under this section. Requires the comptroller to provide that information and those forecasts to the railroad commission as quickly as possible after receiving such requests.

Sec. 39.553. REPORT AND PLAN. (a) Requires PUC to prepare a report on electric energy generation in this state. Requires that the report include an analysis of and policy recommendations for how to most cost-effectively comply with environmental regulation.

(b) Requires PUC, in preparing the report, to analyze information from the reports submitted under this subchapter by electric generating facilities and the railroad commission, and use information already in the possession of existing regulators by consulting with the railroad commission, TCEQ, the Electric Reliability Council of Texas, the Southwest Power Pool, the Southeastern Electric Reliability Council, and the Western Electric Coordinating Council.

(c) Requires that the report evaluate and consider measures that will:

- (1) maintain electric grid reliability;
- (2) ensure the availability of electric energy at reasonable rates;
- (3) reduce air pollution, as defined by Section 382.003 (Definitions), Health and Safety Code;
- (4) increase the state's ability to comply with state and federal clean air standards in nonattainment and near-nonattainment areas; and
- (5) reduce the use of water for electricity generation in this state.

(d) Requires that the report identify the 10 percent of electric generation capacity that will be most impacted by compliance with environmental regulation.

(e) Requires that the report identify combinations of market factors, plant operating characteristics, federal and state environmental regulations promulgated after January 1, 2011, and other conditions that might make it more economically attractive for the electric generation capacity identified in the report to be retired rather than comply with the regulations. Requires that the market factors considered in the analysis include:

- (1) long-term prices and price volatility for fuel sources used to generate electricity in this state;
- (2) price projections for the cost of electricity going forward and factors that are relevant to determining the market price of electricity; and
- (3) the potential impact of the voluntary decommissioning of existing units of electric generation capacity from facilities in this state.

(f) Requires that the report consider plant operating characteristics including variable and fixed operating costs of electric generation facilities identified in the report. Requires that the analysis also incorporate a range of costs projected by credible sources for complying with the specified federal and state air pollution regulations. Requires PUC, in conducting this analysis, to consider electric generation facilities in this state of various vintages, sizes, fuel types, conversion efficiencies, and emission characteristics. Requires that the analysis:

- (1) estimate the amount of electric generation capacity that is likely to voluntarily be retired rather than incur the additional expense of complying with the federal and state air pollution regulations;
- (2) provide an analysis of the cost and the impact on electric rates, and provide price projections, associated with voluntarily retiring electric generation facilities included in the report;

(3) identify any additional barriers to the retirement of the types of electric generation capacity identified and provide recommendations on how to most cost-effectively and voluntarily reduce air pollution, including recommendations to accelerate the permitting process for certain types of low-polluting generation; and

(4) identify the types, costs, and effects of incentives to promote the goals of this section.

(g) Requires PUC, not later than October 1, 2012, to make a draft of the report available for public review and comment for a period of not less than 30 days.

(h) Requires PUC, not later than December 1, 2012, to finalize and publish the report.

SECTION 2.02. Amends Section 39.904, Utilities Code, by adding Subsection (p), as follows:

(p) Provides that this section is intended to increase the amount of renewable generating capacity as provided by Subsection (a) (relating to a schedule of renewable energy generating capacity goals) and is not intended, unless specifically stated otherwise in this section, to provide operational or competitive advantages to renewable energy generators to the detriment of other generation resources.

### ARTICLE 3

SECTION 3.01. Requires the designated appointing officials, as soon as practicable after the effective date of this Act, to appoint the members of the council established under Chapter 300, Utilities Code, as added by this Act.

SECTION 3.02. Effective date: September 1, 2011.