

AN ACT

relating to the legislature's goal for energy efficiency and related energy efficiency programs.

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

SECTION 1. Section 39.905, Utilities Code, is amended to read as follows:

Sec. 39.905. GOAL FOR ENERGY EFFICIENCY. (a) It is the goal of the legislature that:

(1) electric utilities will administer energy savings incentive programs in a market-neutral, nondiscriminatory manner but will not offer underlying competitive services;

(2) all customers, in all customer classes, have a choice of and access to energy efficiency alternatives and other choices from the market that allow each customer to reduce energy consumption, peak demand, or ~~[and reduce]~~ energy costs; and

(3) each electric utility will provide, through market-based standard offer programs or limited, targeted, market-transformation programs, incentives sufficient for retail electric providers and competitive energy service providers to acquire additional cost-effective energy efficiency equivalent to at least 10 percent of the electric utility's annual growth in demand.

(b) The commission shall provide oversight and adopt rules and procedures, as necessary, to ensure that the utilities can

1 achieve the goal of this section [~~is achieved by January 1, 2004~~].

2 (c) A standard offer program provided under Subsection  
3 (a)(3) must be neutral with respect to technologies, equipment, and  
4 fuels, including thermal, chemical, mechanical, and electrical  
5 energy storage technologies.

6 (d) The commission shall adopt the following  
7 market-transformation program options that the utilities may  
8 choose to implement in order to satisfy the goal in Subsection  
9 (a)(3):

- 10 (1) energy-smart schools;  
11 (2) appliance retirement and recycling;  
12 (3) air conditioning system tune-ups; and  
13 (4) the use of trees or other landscaping for energy  
14 efficiency.

15 (e) An electric utility may use money approved by the  
16 commission for energy efficiency programs to perform necessary  
17 research and development to foster continuous improvement and  
18 innovation in the application of technology and program design and  
19 implementation. Money the utility uses under this subsection may  
20 not exceed 10 percent of the amount the commission approved for  
21 energy efficiency programs in the utility's most recent full rate  
22 proceeding.

23 (f) Unless funding is provided under Section 39.903,  
24 beginning January 1, 2006, each unbundled transmission and  
25 distribution utility shall include in its energy efficiency plan a  
26 targeted low-income energy efficiency program as described by  
27 Section 39.903(f)(2), and the savings achieved by the program shall

1 count toward the transmission and distribution utility's energy  
2 efficiency goal. The commission shall determine the appropriate  
3 level of funding to be allocated to both targeted and standard offer  
4 low-income energy efficiency programs in each unbundled  
5 transmission and distribution utility service area. The total  
6 expenditures for both targeted and standard offer low-income energy  
7 efficiency programs will be based on the amount spent by the  
8 transmission and distribution utility on the commission's  
9 hard-to-reach program in calendar year 2003. This level of funding  
10 for low-income energy efficiency programs shall be provided from  
11 money approved by the commission for the transmission and  
12 distribution utility's energy efficiency programs. The state  
13 agency that administers the federal weatherization assistance  
14 program shall provide reports as required by the commission to  
15 provide the most current information available on energy and peak  
16 demand savings achieved in each transmission and distribution  
17 utility service area.

18 SECTION 2. This Act takes effect September 1, 2005.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 712 passed the Senate on May 3, 2005, by the following vote: Yeas 31, Nays 0; May 26, 2005, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2005, House granted request of the Senate; May 29, 2005, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 712 passed the House, with amendments, on May 25, 2005, by a non-record vote; May 27, 2005, House granted request of the Senate for appointment of Conference Committee; May 29, 2005, House adopted Conference Committee Report by a non-record vote.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

- SUBJECT:** Revising the state program for energy efficiency
- COMMITTEE:** Energy Resources — committee substitute recommended
- VOTE:** 4 ayes — Farabee, Crabb, Gonzalez Toureilles, Howard  
0 nays  
3 absent — West, Corte, Crownover
- SENATE VOTE:** On final passage, May 3 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Robert King, Thermal Energy Storage Coalition, ARCA, Texas Nursery and Landscape Association; Audrey Parker, Good Company Associates; James Presnal, Texas Nursery and Landscape Association  
Against — Carol Biedrzycki, Texas Ratepayers Organization to Save Energy; Tom Smith, Public Citizen
- BACKGROUND:** In 1999, the 76th Legislature enacted SB 7 by Sibley, which established an energy efficiency program administered by the Public Utility Commission (PUC). The program is designed to reduce energy demand and lower energy costs. The program is operated by utilities and funded through transmission and distribution rates.
- DIGEST:** CSSB 712 would add reduction of peak demand to the state's energy efficiency goals. The bill would specify that it was the goal of the Legislature that customers have access to energy efficiency alternatives that allowed each customer to reduce energy consumption, peak demand, or energy costs.  
  
The bill would require the PUC to ensure that utilities reached the goal of a 10 percent reduction in their annual growth in demand on an ongoing basis, removing a provision requiring that these reductions be made by January 1, 2004. To satisfy this goal, the PUC would adopt program options available for a utility to implement, including programs for:

- energy-smart schools;
- appliance retirement and recycling;
- air conditioning system tune-ups; and
- the use of landscaping for energy efficiency.

A utility could use up to 10 percent of the utility's energy efficiency program funds approved by the PUC for research and development to improve technology applications and program design.

The bill would require market-based incentive energy efficiency programs to be neutral with respect to technology, equipment, and fuel.

The bill would take effect September 1, 2005

**SUPPORTERS  
SAY:**

By expanding the scope of the PUC's successful energy efficiency program, CSSB 712 would facilitate the adoption of technologies to manage and reduce energy consumption during peak demand periods. The bill would allow energy efficiency programs that reduced either a customer's consumption of energy or consumption during peak demand periods. The need for more generation capacity largely is driven by high levels of energy consumption during certain hours on summer days, when demand is at its highest. Peak demand contributes to higher energy costs, pollution, and the need for new generation and transmission infrastructure. CSSB 712 would allow utilities to design programs to lower these consumption spikes.

The bill would establish four new programs that could promote innovations in energy efficiency in the state and realize substantial benefit for energy customers. An energy-smart schools program would improve energy efficiency at public schools, allowing more effective use of state and local education dollars. Appliance recycling would offer incentives for people to retire old, inefficient second refrigerators located in hot garages, which are extremely costly to run. Encouraging tune-ups of air conditioning systems has been known to improve efficiency by 25-75 percent. In addition, planting trees and shrubs near a home can provide shade and reduce the need for air conditioning.

**OPPONENTS  
SAY:**

The PUC's energy efficiency program is functioning effectively and is not in need of the changes proposed under CSSB 712. Utilities exceeded the demand reduction goal for 2003 by 11 percent. Under current law, the PUC can evaluate program proposals and approve any programs that meet

its criteria. The programs dedicated in this bill would be eligible under current law, and the Legislature should not tie the commission's hands by designating which programs would have to be included.

CSSB 712 would place less emphasis on reducing energy costs than the current program. Currently, reduction of energy costs is a necessary component of any program, and this requirement provides important benefits to consumers. CSSB 712 would weaken this provision by allowing energy efficiency alternatives to satisfy any one of three goals for reduction of energy consumption, peak demand, or energy costs.

**NOTES:**

The House committee substitute deleted a provision in the Senate-passed version that would have allowed a utility in its next rate case before the commission to recover the costs for acquiring energy efficiency equivalent up to 20 percent of the utility's growth in demand and allow as an incentive for additional efficiency program payments 5 percent of the additional program payments.