

**SUBJECT:** Omnibus electricity efficiency and conservation incentive program

**COMMITTEE:** Regulated Industries — committee substitute recommended

**VOTE:** 7 ayes — P. King, Christian, Turner, Crabb, Oliveira, Straus, Swinford  
0 nays  
2 absent — Hartnett, Smithee

**WITNESSES:** *(on original bill)*  
For — Ramon Alvarez, Environmental Defense; John W. Fainter, Jr., Association of Electric Companies of Texas, Inc.; Glenn Garland, Clearesult Consulting, Inc.; Rich Herweck, Texas Combined Heat & Power Initiative; Michael Jewell, Alliance for Retail Markets and Direct Energy, CPL Retail Energy and WTU Retail Energy; Tom "Smitty" Smith, Public Citizen; *(Registered, but did not testify:* Eric Craven, Texas Electric Cooperatives; Cyrus Reed, Lone Star Chapter of Sierra Club; Michael Stockard, TXU Electric Delivery; Mark Stover, Efficiency Texas; Mark Zion, Texas Public Power Association (TPPA))  
  
Against — None  
  
On — Phillip Oldham, Texas Association of Manufacturers; *(Registered, but did not testify:* Dub Taylor, State Energy Conservation Office)  
  
*(on committee substitute)*  
For — Billy G. Berny, AEP-Tx Central Co., Tx North G., and SWEPCO and Electric Utility Marketing Managers of Texas (EUMMOT); Luke Metzger, Environment Texas.

**BACKGROUND:** SB 7 by Sibley, which was enacted in 1999 to restructure the electricity market in Texas, added Utilities Code, sec. 39.905 to establish a goal of creating an energy savings incentive program that would be offered in a market-neutral and non-discriminatory manner to all electric customers.  
  
The Electric Reliability Council of Texas, Inc. (ERCOT) manages the flow of electric power to about 20 million Texans. ERCOT's region includes 85 percent of the state's electricity load and 75 percent of the

Texas land area. According to its December 2006 *Report on Existing and Potential Electric System Restraints and Needs*, Texas has experienced an increase in electricity demand of 2.5 percent per year between 1990 and 2006, and demand is projected to increase at 2.1 percent annually between 2007 and 2012. Reserve margin is the percent by which generating capacity in an area exceeds peak demand for electricity. ERCOT rules require a reserve margin of 12.5 percent, but has forecasted reserve margins would fall below that level beginning in 2008, according to the December 2006 ERCOT report.

DIGEST: CSHB 3693 would amend the Education, Government, Health and Safety, and Utilities codes to:

- require state agencies, universities and local governments to adopt energy efficiency programs;
- provide additional incentives for electric utilities to expand energy conservation and efficiency programs;
- include municipal-owned utilities and cooperatives in efficiency programs;
- increase incentives and provide consumer education to improve efficiency programs; and
- support other programs such as revision of building codes and research into alternative technology and renewables.

**Government energy programs.** CSHB 3693 would require state boards, commissions and departments, state universities, and local governments to record the cost for electric, water, or natural gas services and report that information on a publicly accessible Internet website. State agencies, universities and local governments would be required to set a goal for reduction in energy cost and to purchase more energy-efficient equipment, appliances, and light bulbs. The bill also would require the Public Utility Commission (PUC) to provide information to school districts about financing solar panels for school district buildings.

**Electric utility incentives.** CSHB 3693 would amend Utilities Code, sec. 39.905 to require electric utilities to administer energy efficiency programs and to provide the equivalent of saving 10 percent of the utility's annual growth of demand by December 31, 2007. The savings goal would be 15 percent of demand by December 31, 2008, and 20 percent by December 31, 2009. Utilities in the ERCOT region would be required to encourage retail electric providers to participate in efficiency and demand

response programs to reduce electricity use, and ERCOT would be required to factor the projected savings into its long-range forecast for electricity demand.

The PUC would be required to develop an energy efficiency cost recovery factor to compensate utilities for their energy efficiency programs. The commission would also be required to complete a study on energy efficiency in Texas and provide its recommendations to the Legislature by January 15, 2009. The study could include a recommendation whether to increase the goal for energy efficiency to 30 percent of growth in demand for electricity by December 31, 2010, or to 50 percent of growth in demand by December 31, 2015.

**Municipal utilities and electric cooperatives.** CSHB 3693 would require municipally owned utilities and electric cooperatives that had retail sales of more than 500,000 megawatt hours in 2005 to adopt an energy savings incentive program. These utilities would be required to report to the State Energy Conservation Office by September 1, 2009, about their energy savings incentive programs.

**Customer education and incentives.** Electric utilities would be required to encourage the retail electric providers to provide efficiency programs and demand response programs, which would allow customers to be aware of the varying cost of electricity during the day. The bill would also require retail electricity providers, in ERCOT and non-ERCOT areas of the state, to provide energy efficiency educational materials to their customers. The PUC would also be required to work with utilities and retail electric providers to develop a program to provide individualized home electric energy reports to educate customers about electricity efficiency.

CSHB 3693 also would require the installation of energy efficiency lighting, building materials and heating and air-conditioning systems for all new residential construction or substantial renovations financed through Texas Department of Housing and Community Affairs loan programs. It also would provide a sales tax holiday for energy-efficient products on April 16 of every year.

**Other provisions.** CSHB 3693 would allow the State Energy Conservation Office to revise state energy efficiency standards if they were replaced with more stringent standards in the International

Residential Code or the International Energy Conservation Code. The bill also would allow the State Energy Conservation Office to seek alternative funding and grants to fund energy efficiency programs and would require the office to complete and submit a report on combined heating and power technology to the 81st Legislature.

The bill would take effect on September 1, 2007.

**SUPPORTERS  
SAY:**

CSHB 3693 would provide a comprehensive approach to energy efficiency with the state setting an example on how those programs work and by aligning these programs with the restructured electricity market. Texas must have electricity capacity to continue to grow, but the state cannot solve the projected shortfall in reserve capacity by building generation facilities or conservation measures alone. The state must do both. The state needs to be a better steward of our energy resources.

The fiscal note reflects the costs but not the future savings through energy efficiency programs. Much like a homeowner installing a new heating and air-conditioning system or improving installation, there are large initiation costs. The return would be only dollars per month for the homeowner, but the savings eventually would more than pay for the initial investment. That same dynamic would benefit the state as the greater savings it realized would pay the initial costs.

Lost time cannot be made up or past decisions reversed. Texas has a completely different political culture and history than does California, and the Lone Star State has continued restructuring and competition in electric utilities. Differences in the climate and topography within the state make one-size-fits-all solutions unfeasible. However, Texas could join Colorado and North Carolina, which passed comprehensive energy conservation programs this spring, if it were to adopt CSHB 3693. It would be a move in the right direction.

**Government energy programs.** Government should not mandate any program on businesses and consumers that it would not apply to its own operations. State and local governments have the obligation to set an example. CSHB 3693 also would provide for transparency and accountability in energy efficiency programs by requiring entities to set goals and post the results where the public could see them. Energy efficiency can translate directly into savings of tax money.

**Electric utility incentives.** CSHB 3693 is designed so that energy efficiency programs match the Texas marketing structure. Under the old regulatory regime, the PUC could mandate energy savings as part of the rate hearing and adjust rates to account for energy savings. Policymakers must be flexible and innovative to design these new programs under restructuring. CSHB 3693 would provide a schedule of goals and incentives rather than mandates so that electric utilities and retail service providers could be compensated fairly for energy efficiency programs.

Consumer concerns about global warming and energy efficiency have changed electric utilities' expectations and marketing strategies. An increasing number of consumers want to “go green,” so utilities must be able to provide electricity from renewable sources and encourage conservation and efficiency programs. In the increasingly competitive retail market, Texas retail electricity providers must respond to customer demand.

Electricity is a unique commodity that cannot be easily stored and must be produced almost instantaneously as it is used. Keeping a balance between the load and generation ultimately benefits utilities and consumers because using electricity efficiently is much cheaper than building new power plants. The bill would help begin a process of reducing demand for energy even as the state's economy continues to grow.

Municipally owned utilities and electric cooperatives have unanimously opted out of competition. While some municipally owned utilities, such as Austin Energy, have adopted energy efficiency programs, most have not. CSHB 3693 would encourage these other utilities to help their customers save money through energy efficiency.

**Consumer education.** CSHB 3693 would encourage simple methods like consumer education programs and home energy audits to raise awareness among consumers about their own electricity use and the varying cost of electricity. The bill also would help adoption of readily available technology such as “smart meters” to help provide additional real-time information about electricity usage and costs. An informed consumer can make the correct choice about electricity use.

Even customers who remain with the former monopoly electric company at the “price to beat” have exercised a choice. Some remain with their old utility because of a sense of brand loyalty even if they could select a

cheaper alternative. Utilities can provide plenty of useful information about alternative plans, and ratepayers have a responsibility to become better informed customers.

Improved light bulbs and energy efficiency measures cost more money initially, but the savings in energy pay for that cost quickly. The bill would also provide another incentive by allowing a sales tax holiday on purchase of energy efficiency products.

**Other provisions.** CSHB 3693 would not specifically address appliance energy efficiency standards because it would provide guidelines and goals rather than mandates. The bill also would provide for a study of additional standards and of other technologies. Providing additional incentives or credits for technologies, such as solar power, would continue to be part of the policy debate and should be addressed in other legislative sessions.

OPPONENTS  
SAY:

CSHB 3693 would cost the state almost \$13 million in fiscal 2008-09, and local governments would lose almost \$2 million more during the next two years. Also, the bill could cost the state additional money by removing the \$1 million cap on unclaimed property that is diverted to electric cooperatives for rural scholarships, economic development, and energy efficiency assistance. The bill also would impose an unfunded mandate on school districts and local governments to pay for these energy programs with an uncertain return on the investment.

The experience Texas had with the "price to beat" is not an encouraging sign for the incentives under CSHB 3693. The "price to beat" deliberately was set to be artificially high. The goal was to persuade customers to switch to other retail providers or even select another plan with their existing provider. Despite all the publicity and consumer education programs, almost one-third of ratepayers stubbornly refuse to choose another, and potentially lower, rate plan. Consumers might know how efficiency programs could affect their electricity bill and ignore that information.

The bill should provide incentives for development of solar power. Before SB 7 was enacted in 1999, there was virtually no wind generation in the state. Now Texas exceeds California and ranks with entire nations in terms of installed wind generation capacity because of federal and state incentives. A similar success story could prevail with solar power if Texas helped the industry.

Consumer appliance efficiency standards should also be considered in CSHB 3693. It would take the correct steps by requiring further study, but there are existing standards that should be placed in statute.

NOTES:

The LBB fiscal note estimates that CSHB 3693 energy efficiency programs would cost the state \$12.8 million in general revenue in fiscal 2008-09. The cost to cities would be \$682,000 in fiscal 2008 and \$709,000 in fiscal 2009. The counties would lose \$88,000 in fiscal 2008 and \$91,000 in fiscal 2009, while transit authorities would lose \$234,000 in fiscal 2008 and \$243,000 in fiscal 2009.