

BILL ANALYSIS

Senate Research Center

S.B. 1039
By: Van de Putte
Business & Commerce
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DIGEST AND PURPOSE

Fuel cell technologies generate power through chemical reaction rather than combustion, creating less of the pollution and ozone emissions associated with power produced through combustion. As proposed, S.B. 1039 establishes a series of annual goals for stationary fuel cell deployment, directs certain utilities to establish deployment programs to achieve capacity goals, and directs the Public Utility Commission of Texas to adopt rules to implement incentive programs. This bill also requires the state energy conservation office to partner with the United States Department of Energy to develop research and cooperative programs related to fuel cells, and provides a tax exemption for the sale, use, or consumption of fuel cells in Texas.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 2 (Section 39.910, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 31.002, Utilities Code, by adding Subdivision (21) to define “fuel cell.”

SECTION 2. Amends Chapter 39Z, Utilities Code, by adding Sections 39.910-39.912, as follows:

Sec. 39.910. FUEL CELL ELECTRIC GENERATION DEMONSTRATION AND DEPLOYMENT. (a) Provides that this section applies only to an electric utility, electric cooperative, or municipally owned utility that is located in, or that serves, an area that is in a nonattainment area, as defined by Title I of the federal Clean Air Act (42 U.S.C. Section 7401 et seq.), or an area that is an affected county, as defined in Section 386.001(2) (Definitions), Health and Safety Code.

(b) Requires each electric utility, electric cooperative, and municipally owned utility to establish a demonstration and deployment program to achieve the generation capacity goals of this subsection by the dates specified by this subsection. Authorizes the generation capacity goals to be met by the installation of fuel cell electric generation capacity on or off of the electric power grid. Sets forth the total generation capacity goals for this state.

(c) Sets forth an electric utility’s, electric cooperative’s, or municipally owned utility’s requirements to meet the generation capacity goals established under this section.

(d) Requires the incentives under Subsection (c)(2) to be administered in a market-neutral, nondiscriminatory manner and offered to all customer classes.

(e) Requires the Public Utility Commission of Texas (PUC), to provide for implementation of the incentive programs under this section, to adopt rules similar to those governing the design and implementation of efficiency programs established under Section 39.905 (Goal for Energy Efficiency). Sets forth the

requirements for the rules.

(f) Requires PUC to establish goals, by rule, for each electric utility, electric cooperative, and municipally owned utility that is proportional to its share of the electric generation load. Authorizes PUC to exempt small electric cooperatives or municipally owned utilities from participation under this section.

(g) Requires PUC to establish incentive levels, with different incentive levels for different sizes of fuel cells, that are necessary and sufficient to meet the generation capacity goals by the appropriate dates.

Sec. 39.911. TEXAS COUNCIL ON ENVIRONMENTAL TECHNOLOGY PARTICIPATION IN FUEL CELL ELECTRIC GENERATION DEMONSTRATION AND DEPLOYMENT. (a) Defines "council."

(b) Requires the Texas Council on Environmental Technology (council) to provide coordination and support for the Texas Consortium for Advanced Fuel Cell Research; monitor and evaluate the status of the fuel cell industry in this state for both mobile and stationary applications, including the general market conditions and other factors that may affect the introduction of fuel cells and related products to the market; and develop certain legislative recommendations.

SECTION 3. Amends Section 39.002, Utilities Code, to include Section 39.910 in the list of sections that apply to a municipality owned utility and an electric cooperative.

SECTION 4. Amends Section 40.004, Utilities Code, to make a conforming change.

SECTION 5. Amends Section 41.001, Utilities Code, to make a conforming change.

SECTION 6. Amends Section 41.004, Utilities Code, to include administering the fuel cell demonstration and deployment programs under Section 39.910 in the PUC's jurisdiction over electric cooperatives.

SECTION 7. Amends Chapter 447, Government Code, by adding Section 447.012, as follows:

Sec. 447.012. FUEL CELL DEVELOPMENT. Requires the state energy conservation office to undertake to partner with the United States Department of Energy and other federal agencies or programs to develop cooperative programs, related to research on, development of, and demonstration of fuel cell technology in this state.

SECTION 8. Amend Chapter 151H, Tax Code, by adding Section 151.356, as follows:

Sec. 151.356. STATIONARY FUEL CELLS. (a) Provides that the sale of stationary fuel cells is exempted from the taxes imposed by this chapter.

(b) Provides that this section expires January 1, 2011.

SECTION 9. Requires the council, not later than September 1, 2004, to present the speaker of the house of representatives, the lieutenant governor, and the PUC with a report on the status of the fuel cell industry in this state. Sets forth the required content of the report.

SECTION 10. Requires PUC to adopt rules under Section 39.910, Utilities Code, as added by this Act, before January 1, 2004.

SECTION 11. Effective date: September 1, 2003.