

## **BILL ANALYSIS**

Senate Research Center  
85R4937 DMS-F

S.B. 736  
By: Hancock  
Business & Commerce  
3/6/2017  
As Filed

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

Since passage of S.B. 7, 76th Legislature, Regular Session, 1999, the General Land Office (GLO) has been authorized to sell electricity to an agency of the state, a state institution of higher education, a public school district, a political subdivision of this state, a military installation of the United States, or a United States Department of Veterans Affairs facility. S.B. 7 was foundational legislation that enacted the competitive electric marketplace in Texas, and whose central tenet is that market forces should drive innovation, efficiency, and competitive prices for the benefit of consumers.

At the time of its implementation there was great concern among market participants that prices may increase sharply for consumers, but as conditions stabilized those prices were expected to fall over time. The GLO program was intended to provide a low-cost option for government entities to soften the initial shock of deregulation.

An unfortunate effect of the GLO program is that as the Texas retail electric market has evolved in sophistication the state now finds itself in direct competition with private companies. GLO has significant advantages at its disposal in bidding against the competitive retail market. Chief among them is that they are granted an approximate two percent gross receipts tax exemption on all sales. Retail electric providers now assert that they are underbid by GLO by approximately two percent each time they compete for a government contract in a competitive area of the state.

The competitive retail electric market was established for a reason. The government's ability to have a carve-out program with special tax treatment in direct competition with private business is counter to the central tenets of deregulation. It can have no other effect than to distort market forces and hamper further innovation for the marketplace as a whole.

S.B. 736 removes the ability for GLO to compete in the competitive retail electric market.

As proposed, S.B. 736 amends current law relating to the authority of the General Land Office to sell retail electric power.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Transfers Section 35.102, Utilities Code, to Subchapter A, Chapter 101, Utilities Code, redesignates it as Section 101.009, Utilities Code, and amends it as follows:

Sec. 101.009. New heading: STATE AUTHORITY TO SELL OR CONVEY NATURAL GAS. (a) Defines "commissioner" and "public retail customer."

(b) Redesignates existing text of Subsection (a) as Subsection (b). Authorizes the commissioner of the General Land Office (commissioner), acting on behalf of the state, to sell or otherwise convey natural gas generated from royalties taken in kind as provided by Sections 52.133(f) (relating to the definition of "royalty taken

in kind”), 53.026 (In Kind Royalty), and 53.077 (In Kind Royalty), Natural Resources Code, directly to a public retail customer. Deletes existing text authorizing the commissioner, acting on behalf of the state, to sell or otherwise convey power or natural gas generated from royalties taken in kind as provided by Sections 52.133(f), 53.026, and 53.077, Natural Resources Code, directly to a public retail customer, regardless of whether the public retail customer is also classified as a wholesale customer under other provisions of this title.

(c) Redesignates existing Subsection (b) as Subsection (c). Makes conforming changes.

SECTION 2. Amends Section 104.2545(d), Utilities Code, to redefine “public retail customer.”

SECTION 3. (a) Repealer: Heading to Subchapter D (State Authority to Sell or Convey Power), Chapter 35 (Alternative Energy Providers), Utilities Code.

(b) Repealers: Sections 35.101 (Definitions), 35.103 (Access to Transmission and Distribution Systems; Rates), 35.104 (Limit in Certain Areas), 35.105 (Wholesale Customers), and 35.106 (Access to Power Generation), Utilities Code.

SECTION 4. Authorizes the General Land Office (GLO) or an entity operating under a contract with GLO to continue providing retail electric service in accordance with Subchapter D, Chapter 35, Utilities Code, as that subchapter existed before the effective date of this Act, under the terms of an agreement with a customer entered into before the effective date of this Act, only until the date the agreement expires.

SECTION 5. Effective date: September 1, 2017.