

BILL ANALYSIS

Senate Research Center
86R6295 GRM-F

S.B. 2066
By: Menéndez
Business & Commerce
4/14/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 2066 amends current law relating to on-site distributed generation and energy storage resources.

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. Amends Subtitle C, Title 5, Business & Commerce Code, by adding Chapter 113, as follows:

CHAPTER 113. SALES AND LEASING OF ON-SITE DISTRIBUTED GENERATION RESOURCES

Sec. 113.001. DEFINITIONS. Defines "distributed generation" and "small commercial customer."

Sec. 113.002. APPLICABILITY. Provides that this chapter applies to a seller or lessor of on-site distributed generation resources.

Sec. 113.003. LEASE, SALES, AND INSTALLATION DISCLOSURES. Requires a seller or lessor who enters into a purchase, lease, or power purchase agreement with a residential or small commercial customer for the operation of an on-site distributed generation resource to provide to the customer in writing:

- (1) contact information of the salesperson and installer of the generation resource;
- (2) a description of the generation resource, including all associated equipment to be installed;
- (3) the cost of the generation resource, including all associated equipment to be installed;
- (4) a detailed accounting of fees associated with the installation or operation of the generation resource;
- (5) representations made as part of the agreement regarding the expected operational performance and financial performance of the generation resource; and
- (6) all applicable warranties.

Sec. 113.004. ADDITIONAL DISCLOSURES FOR LEASE AGREEMENTS. Requires a lessor, in addition to the disclosures required under Section 113.003, to provide to a

leasing residential or small commercial customer in writing:

- (1) the term and rate of the lease, including any payment escalators or other terms that affect the customer's payments; and
- (2) a statement of whether the lease and any applicable warranty or maintenance agreement is transferable to the purchaser of the property where the on-site distributed generation resource is installed.

Sec. 113.005. **ADDITIONAL DISCLOSURES FOR POWER PURCHASE AGREEMENTS.** Provides that, in addition to the disclosures required under Section 113.003, a residential or small commercial customer who enters into a power purchase agreement is entitled to receive in writing:

- (1) the term and rate of the power purchase agreement, including any payment escalators or other terms that affect the customer's payments; and
- (2) whether the power purchase agreement and any applicable warranty or maintenance agreement is transferable to the purchaser of the property where the on-site distributed generation resource is installed.

SECTION 2. Amends Chapter 229, Local Government Code, by adding Subchapter C as follows:

SUBCHAPTER C. REGULATION OF SOLAR ENERGY DEVICES

Sec. 229.101. **REGULATION OF SOLAR ENERGY DEVICES.** (a) Defines "small commercial customer" and "solar energy device."

- (b) Authorizes a municipality to prohibit a residential or small commercial customer from installing a solar energy device only for a purpose for which a property owners' association may prohibit the installation under Section 202.010(d) (relating to authorizing a property owner to include or enforce a provision in a dedicatory instrument that prohibits a solar energy device), Property Code.

SECTION 3. Amends the heading to Section 202.010, Property Code, to read as follows:

Sec. 202.010. **REGULATION OF CERTAIN ENERGY DEVICES.**

SECTION 4. Amends Section 202.010(a), Property Code, by adding Subdivision (3) to define "distributed generation."

SECTION 5. Amends Section 202.010, Property Code, by adding Subsection (g) as follows:

- (g) Prohibits a property owners' association from including or enforcing a provision in a dedicatory instrument that:
 - (1) requires three or more inspections by the property owners' association of an on-site distributed generation or energy storage resource before the resource is operational;
 - (2) is more onerous than interconnection rules adopted by the Public Utility Commission of Texas; or
 - (3) imposes any inspection or approval requirements or changes more onerous than those required for a proposed modification or improvement of an owner's property that is unrelated to on-site distributed generation or energy storage.

SECTION 6. Amends Subchapter C, Chapter 39, Utilities Code, by adding Section 39.1015, as follows:

Sec. 39.1015. CONSUMER PROTECTIONS FOR CERTAIN ON-SITE ENERGY GENERATION AND STORAGE. (a) Defines "distributed generation."

(b) Entitles a residential or small commercial customer to have access to on-site distributed generation and energy storage resources to:

- (1) generate and export electricity to the grid;
- (2) consume electricity from the grid; and
- (3) reduce the customer's use of electricity from the grid.

(c) Entitles a residential or small commercial customer to store energy at the location of the customer's connection to the grid.

(d) Entitles a residential or small commercial customer that installs an on-site distributed generation or energy storage resource to timely approval of an interconnection agreement and interconnection of distributed generation or energy storage with the customer's transmission and distribution utility or electric utility in accordance with Section 39.554 (Interconnection of Distributed Renewable Energy) or 39.916 (Interconnection of Distributed Renewable Generation), as applicable. Entitles a residential or small commercial customer to timely approval of any permission to operate or any other approval required for the customer to use the customer's on-site distributed generation or energy storage resource.

(e) Entitles a residential or small commercial customer to timely notice from the customer's transmission and distribution utility or electric utility of an improvement and the cost of the improvement to the distribution grid that must be made to allow the customer to install or expand existing on-site distributed generation or energy storage resources.

(f) Prohibits an electric utility or a retail electric provider, except for a charge to recover a cost described by Subsection (e), from imposing a rate or charge on a residential or small commercial customer or requiring a residential or small commercial customer to take service under a tariff or service plan that applies only to customers who have installed on-site distributed generation or energy storage resources.

(g) Prohibits an electric utility or a retail electric provider from charging a residential or small commercial customer a fee solely because the customer elects to discontinue service from the utility or provider.

(h) Prohibits an electric utility from charging a residential or small commercial customer with an on-site distributed generation or energy storage resource a fee to reconnect to the electric grid that is more than the fee charged to a customer in the same rate class who does not have an on-site distributed generation or energy storage resource, except the interconnection fee applicable to the original installation of the on-site distributed generation or energy storage resource.

(i) Entitles a residential or small commercial customer to interconnect in a manner that allows the customer to receive power from the customer's on-site energy storage resource when the electric grid is not operating if the customer's on-site distributed generation resource is equipped with an inverter or other technology that complies with a standard developed by a federal agency or standards widely used by industry and other states that enables the on-site distributed generation resource to safely provide power to the customer when the electric grid is not operating.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2019.