

BILL ANALYSIS

Senate Research Center
86R15072 TYPED

H.B. 2263
By: Paddie et al. (Hancock)
Business & Commerce
4/29/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2263 amends current law relating to the sale of electric power to certain public customers.

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 Section 52.133(d), Natural Resources Code, as follows:

(d) Authorizes the Commissioner of the General Land Office (commissioner; GLO), the owner of the soil under Subchapter F (Relinquishment), or the commissioner acting on behalf of and at the direction of an owner of the soil under Subchapter F, the board, or a board for lease to negotiate and execute contracts or any other instruments or agreements necessary to convert that portion of the royalty taken in kind into other forms of energy, other than electricity, rather than into other forms of energy, including electricity.

SECTION 2. Amends Section 53.026(b), Natural Resources Code, to make a conforming change.

SECTION 3. Amends Section 53.077(b), Natural Resources Code, to make a conforming change.

SECTION 4. Amends Section 182.022, Tax Code, by adding Subsection (d) to prohibit a tax under this chapter (Miscellaneous Gross Receipts Taxes), notwithstanding any other provisions of this chapter, from being imposed on the gross receipts from the sale of electricity to a public school district customer.

SECTION 5. Transfers Section 35.102, Utilities Code, to Subchapter A, Chapter 101, Utilities Code, redesignates it as Section 101.009, Utilities Code, and amends it to read as follows:

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

(b) Creates this subsection from existing text. Authorizes the commissioner, acting on behalf of the state, to sell or otherwise convey natural gas, rather than to sell or otherwise convey power or natural gas, generated from royalties taken in kind as provided by Sections 52.133(f) (relating to a provision that, for the purposes of this section, royalty taken in kind includes oil or gas sold or marketed by the commissioner that has been produced on state mineral lands or from the first three miles of federal waters adjacent to the state boundaries, also known as the 8g zone), 53.026 (In Kind Royalty), and 53.077 (In Kind Royalty), Natural Resources Code, directly to a public retail customer, rather than 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) and makes conforming changes.

SECTION 6. Amends Section 104.2545(d), Utilities Code to define "public retail customer" for purposes of this section.

SECTION 7. (a) Repealer: the heading to Subchapter D (State Authority to Sell or Convey Power), Chapter 35, Utilities Code.

(b) Repealer: Section 35.101 (Definitions), Utilities Code.

Repealer: Section 35.103 (Access to Transmission and Distribution Systems; Rates), Utilities Code.

Repealer: Section 35.104 (Limit in Certain Areas), Utilities Code.

Repealer: Section 35.105 (Wholesale Customers), Utilities Code.

Repealer: Section 35.106 (Access to Power Generation), Utilities Code.

SECTION 8. Authorizes GLO or an entity operating under a contract with GLO to continue to provide 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. Authorizes an agreement described by this section to be extended to a date not later than January 1, 2024.

SECTION 9. Provides that the change in law made by this Act does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

SECTION 10. (a) Requires the Public Utility Commission of Texas (PUC), for an electric utility regulated under Chapter 36 (Rates), Utilities Code, as soon as practicable after January 1, 2024, to provide for the adjustment of the electric utility's billing of a public school district customer to reflect any decrease in the utility's tax liability to this state if the decrease is attributable to the exemption in Section 182.022(d), Tax Code, as added by this Act. Requires an adjustment to be made effective at the same time as the decrease of tax liability or as soon after that decrease occurs as is reasonably practicable. Provides that the PUC is not required to provide for an adjustment if the PUC enters an order for the utility under Subchapter C or D, Chapter 36, Utilities Code, that accounts for any decrease in the utility's tax liability attributable to the exemption in Section 182.022(d), Tax Code, as added by this Act. Provides that an adjustment is not a rate case under Subchapter C (General Procedures For Rate Changes Proposed by Utility) or D (Rate Changes Proposed by Regulatory Authority), Chapter 36, Utilities Code.

(b) Requires a retail electric provider, as defined by Section 31.002 (Definitions), Utilities Code, as soon as practicable after January 1, 2024, to adjust the billing of a public school district customer to reflect any decrease in the retail electric provider's tax liability to this state if the decrease is attributable to the exemption in Section 182.022(d), Tax Code, as added by this Act. Requires an adjustment to be made effective at the same time as the decrease of tax liability or as soon after that decrease occurs as is reasonably practicable.

SECTION 11. (a) Effective date: except as provided by Subsection (b) of this section, upon passage or September 1, 2019.

(b) Effective date: Section 182.022(d), Tax Code, as added by this Act: January 1, 2024.