

SUBJECT: Restricting regulation of utility services based on energy source

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson

0 nays

1 absent — Smithee

WITNESSES: For — Jason Ryan, CenterPoint Energy, Texas Gas Service, and Atmos Energy; Todd Harkrider, Hearth, Patio, and Barbecue Association; Brent Bennett, Texas Public Policy Foundation; (*Registered, but did not testify:* Kathy Green, AARP; Amy DeWeese, Atmos Energy Corporation; Daniel Womack, Dow, Inc.; Kyle Frazier, Epcor; Craig Chick, Habitat for Humanity-Texas and Safe Building Materials Association of Texas; Amy Maxwell, Magellan Midstream Partners; John McCord, National Federation of Independent Business; Danielle Delgadillo, South Texas Electric Cooperative (STEC); Jason Modglin, Texas Alliance of Energy Producers; David Mintz, Texas Apartment Association; Charles O'Neal, Texas Association of African American Chambers of Commerce; J.D. Hale, Texas Association of Builders; Katie Coleman, Texas Association of Manufacturers; Riley Stinnett, Texas Gas Service; Ryan Paylor, Texas Independent Producers and Royalty Owners Association (TIPRO); Shana Joyce, Texas Oil and Gas Association; Thure Cannon, Texas Pipeline Association; Tray Bates, Daniel Gonzalez, and Julia Parenteau, Texas Realtors; Kelsey Streufert, Texas Restaurant Association)

Against — Cyrus Reed, Lone Star Chapter Sierra Club; Adrian Shelley, Public Citizen; Jeffrey Jacoby, Texas Campaign for the Environment; (*Registered, but did not testify:* Brie Franco, City of Austin; Luke Metzger, Environment Texas; Clifford Sparks, The City of Dallas; Georgia Keysor)

On — (*Registered, but did not testify:* Thomas Parkinson)

BACKGROUND: Under Utilities Code secs. 11.003 and 101.003, “regulatory authority” means, respectively, either the Public Utility Commission or the Railroad Commission of Texas or the governing body of a city, in accordance with the context.

Sec. 181.901 defines a "utility" as a person, company, or corporation engaged in furnishing water, gas, telephone, light, power, or sewage service to the public.

DIGEST: CSHB 17 would prohibit a regulatory authority, planning authority, or political subdivision from adopting or enforcing an ordinance, regulation, or other measure that had the purpose, intent, or effect of directly or indirectly banning, limiting, discriminating against, or prohibiting the connection or reconnection of a utility service based on the type or source of energy to be delivered to the end-use customer. Such measures also would be prohibited for the construction, maintenance, or installation of residential, commercial, or other public or private infrastructure for a utility service.

An entity could not impose any additional charge or pricing difference on a development or building permit applicant for utility infrastructure that:

- encouraged those constructing homes, buildings, or other structural improvements to connect to a utility service based on the type or source of energy to be delivered to the customer; or
- discouraged the installation of facilities for the delivery or use of a utility service based on the type or source of energy to be delivered to the customer.

The bill would not limit the ability of regulatory authorities or political subdivisions to choose utility services for properties they owned.

CSHB 17 also would not apply to a person, company, or corporation engaged in furnishing telephone service to the public.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

**SUPPORTERS
SAY:**

CSHB 17 would ensure homeowners, builders, and businesses had the ability to decide how best to meet their energy needs. Some states and cities around the country have moved to ban natural gas in new residential and commercial construction. By prohibiting policies that would ban or discriminate against a single energy source, CSHB 17 would preserve customer choice and access to energy sources in Texas, including to affordable and reliable sources such as natural gas.

The bill would guarantee that cities could choose energy sources for properties they owned. It would not be intended to limit the ability of a political subdivision to implement educational programs or offer rebates to customers for the installation of more energy-efficient appliances, energy storage, or renewable or clean energy.

**CRITICS
SAY:**

CSHB 17 is too broad and could have a chilling effect on programs that promoted energy efficiency if the programs were interpreted as discriminating against a particular energy source. In effect, the bill could limit the authority of political subdivisions to educate consumers about cleaner energy choices, to promote electrification, or to offer financial incentives for greener buildings and appliances no matter their energy source.