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STATE CAPITOL REPORT

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Clean Energy Legislation Advancing: Goal Line in Sight

The Texas House advanced five bills over the past seven days that would help Texas grow its clean energy economy and meet our energy demand through energy efficiency. As of this writing three of the bills are in or will soon be on their way to the House Calendars Committee. All three of those bills are Senate bills, and they must be set on a printed House calendar by 10 p.m. Sunday night, May 24 and must pass the House on second reading by midnight Tuesday, May 26.

SB 546 – Energy Efficiency

The Texas House passed **SB 546** (sponsors: **Sen. Troy Fraser (R-Horseshoe Bay)** and **Rep. Rafael Anchia (D-Dallas)**) on a 97-45 vote on May 18. The House version of the bill would raise the energy efficiency goal of the major transmission and distribution utilities like AEP, Oncor and Center Power and Light from 20 percent of growth in demand to 1 percent in total peak demand by 2016, while capping the amount that could be charged to the average consumer to fund the program at \$1 per Megawatt hour.

SB 546 is the outgrowth of HB 3693, omnibus energy efficiency legislation from last session that was sponsored by now House Speaker Joe Straus and Senate Business and Commerce Chairman Troy Fraser.

A recent study by the Public Utility Commission showed that there would be more than a two to one ratio in benefit-cost to consumers by increasing energy efficiency goals and programs. Differences between the House and Senate passed versions of SB 546 will have to be ironed out if the Senate does not concur in the House changes in the Senate bill.

HB 1243 – Distributed Renewable Energy

The House on May 15 passed **HB 1243** on a 99 to 36 vote. This bill, sponsored by **Rep. Pete Gallego (D-Alpine)** would establish a statewide policy on how much utilities must pay owners of distributed renewable energy – like solar panels on roofs -- for surplus

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electricity generated by the individual. The bill involved intense negotiations among the Sierra Club, Public Citizen and other environmental groups, renewable energy producers, and retail electric providers like TXU Energy and RRI (formerly Reliant).

The end result was a bill endorsed by all major environmental organizations as well as the state's largest retail electric providers. The bill establishes a minimum price in the retail electric markets based upon the average market clearing price of energy, while establishing avoided cost as the basis for areas served by municipalities and electric cooperatives. The bill also requires that retail electric providers put information on customers' bills and the utility company websites about what the utilities are willing to pay for excess flows of energy.

SB 16 – Clean Air & Clean Energy

The House Environmental Regulation Committee voted favorably (7-0) on May 18 to report **SB 16 (sponsored in the Senate by Sen. Kip Averitt, R-Waco, and in the House by the Environmental Regulation Committee Chair, Rep. Byron Cook, R-Corsicana)**. This legislation would extend to 2019 the Texas Emissions Reduction Program (TERP) to provide grants to clean up emissions from vehicles. It also would create several new programs, including the potential to take advantage of federal economic stimulus monies for an Energy Star appliance rebate program,

a grant program for emerging technology on renewable electricity storage and reduction of nitrogen oxides from stationary sources, and the potential for creating a Texas registry of greenhouse gases and voluntary greenhouse gas reductions.

While Chairman Cook did remove some provisions supported by Sierra Club – including a required analysis of ozone impact and cumulative impacts on new power plants, and new appliance efficiency standards for pool pumps and other goods – the bill still contains many other provisions supported by the environmental community, including updating the state's antiquated building codes for new homes and commercial buildings. The bill will be officially reported to the House Calendars Committee shortly.

SB 545 – Incentives for Solar Power

This week also brought committee action on two bills supported by renewable energy interests. First, the House Energy Resources Committee on May 18 voted 7-1 to favorably report a major solar incentive bill, **SB 545**. The only Energy Resources Committee member to vote against the bill was former House Speaker Tom Craddick (R-Midland). SB 545 was sponsored by the Senate by **Sen. Fraser (R-Horseshoe Bay)** and in the House by **Rep. Jim Keffer (R-Eastland)** and **Rep. Mark Strama (D-Austin)**.

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Potpourri – Update on Various Bills

Following is a brief status report on several pieces of state legislation (not including energy legislation) covered in previous issues of the Sierra Club *State Capitol Report* this spring. These bills passed the house in which they originated and are now in the other house:

HB 2667 by Rep. Alan Ritter (D-Nederland) – Plumbing Fixtures Standards – The bill is set on the Senate Local & Uncontested Calendar today (May 21) for approval on second and third reading. It is expected to pass without amendment and be sent to the Governor. **Sen. Juan Hinojosa (D-Mission)** is the Senate sponsor. The Sierra Club supports this bill.

HB 3206 by Rep. Al Edwards (D-Houston) – Pollution Control Equipment Tax Abatement – This legislation implements a recommendation by the Legislative Budget Board to clarify when a business can get a tax break for installing certain types of equipment that are intended to meet or exceed the requirements of an environment law, regulation, or rule and have an environmental benefit. The legislation passed the House on May 15 and has been referred to the Senate Finance Committee. Sierra Club supports HB 3206.

HB 4299 by Rep. Patrick Rose (D-Dripping Springs) – Promotion of Rainwater Harvesting – The bill is on the agenda for

hearing before the Senate Natural Resources Committee today (May 21). It is sponsored in the Senate by **Sen. Kip Averitt (R-Waco)**, the chairman of the Committee, so it is likely to be reported favorably by the Committee. The Sierra Club supports the bill.

SB 855 by Sen. John Carona (R-Dallas) & Others – Local Option Funding for Transportation Projects – This legislation would set up a process for local adoption of options for funding transportation projects, including passenger rail, transit, and freight rail systems. The bill was modified considerably by the House Transportation Committee and is set on the House General State Calendar for today (May 21). The Sierra Club prefers the Senate version of SB 855 but supports House passage of the committee substitute for the bill to get the legislation to conference committee.

SB 2315 by Sen. Kip Averitt (R-Waco) – Water Audits – This bill, sponsored in the House by **Rep. Tara Rios Ybarra (D-South Padre Island)**, requires retail water suppliers receiving any financial assistance from the Texas Water Development Board to perform an annual system water loss audit and file that audit with the agency. The bill has been officially reported from House Natural Resources Committee but has not been set for House floor debate as of yet. The Sierra Club supports SB 2315.

Nuke Subsidy Bill Held up in Senate Committee

A controversial House bill – **HB 4525 by Rep. Tan Parker (R-Flower Mound)** – that would allow certain manufacturing plants and utilities to gain up to \$50 million in direct subsidies was left pending in the Senate Committee on Economic Development earlier this week. Supporters contend that the refund that would be given to certain utilities and manufacturers under this bill would be another economic development tool to attract industry to Texas. The bill appears, however, to benefit mainly proposed developers of nuclear facilities, which could see refunds of \$50 million over the 10 years of the proposed programs.

Criticism of HB 4525

Cyrus Reed, Conservation Director of the Lone Star Chapter of the Sierra Club, Tom “Smitty” Smith of Public Citizen, Dick Lavine of the Center for Public Policy Priorities, and others testified against HB 4525 at the Senate committee hearing. They criticized a provision that would allow utilities receiving federal loan guarantees to qualify for the proposed rebate as well as a provision that would make the bill retroactive to January of 2008.

The bill is sponsored in the Senate by **Senator Rodney Ellis (D-Houston)**, who was questioned in committee by both **Senator Kevin Eltife (R-Tyler)** and **Senator Chris Harris (R-Arlington)**. Sen. Eltife asked if the bill would also apply to nuclear power plants,

while Harris asked why the bill would be retroactive to allow some plants that had already reached agreements on property tax abatement to gain access to the sales tax rebates. Sen. Ellis said the bill was indeed written to allow certain utilities to take advantage of the provisions.

Tax Giveaway

Both NRG at the South Texas Plant and Luminant Energy at the Comanche Peak Nuclear Plant have submitted applications to the Nuclear Regulatory Commission to expand their existing facilities and both have applied for federal loan guarantees. Neither Luminant nor NRG have ever discussed locating their proposed new Texas nuclear reactors elsewhere.

Thus Sierra Club believes the bill represents a tax giveaway to plants that are already on the drawing board. The initial Fiscal Analysis of HB 4525 estimates it could lead to a \$110 million tax giveaway in 2012-2013, mainly because of the NRG’s proposed additional two nuclear reactors in Matagorda County. The bill requires a municipality, county, or other political subdivision that makes such an agreement to make the rebate, refund, or payment directly to the owner. Sierra Club is suggesting the bill should either be left pending or it should only apply to future manufacturing plants and not present utility projects already planned for Texas.

Shoppers can Save Energy, Save Water, and Save Money on Memorial Day Weekend

Sales Tax Holiday on Energy Efficient Appliances Will Be in Effect

At a press conference at the Texas State Capitol on May 19, State Senator Rodney Ellis, State Representative Lon Burnam, the Texas Retailers Association, and the Lone Star Chapter of the Sierra Club reminded prospective appliance shoppers to take advantage this Memorial Day weekend of the sales tax holiday on energy efficient appliances.

“I am proud to have sponsored the bill last session that created the sales tax holiday for energy efficient appliances and saved Texans almost 3 million dollars,” said State Representative Lon Burnam. **“If I had my way, these appliances would be tax-free year round as a way to provide relief to low-income Texans, reduce energy consumption, and decrease green house gas emissions -- all at the same time. It’s a rare win-win for everyone involved, and I hope Texans will take advantage of the opportunity again this year.”**

Appliances Covered

This Memorial Day Weekend, beginning Friday, May 22 at midnight through Monday, May 25 at midnight, consumers can buy the following energy efficient appliances without paying tax on the purchase:

- Air conditioners (up to \$6,000)
- Ceiling fans

- Clothes washers
- Dehumidifiers
- Dishwashers
- Incandescent or fluorescent light bulbs (certain energy efficient ones)
- Programmable thermostats
- Refrigerators (up to \$2,000)

Benefits of Efficiency

Senator Rodney Ellis said, **“Last session, I co-authored a bill in the Senate and helped to pass the legislation which established a Texas Sales Tax Holiday for Energy Efficient appliances and products, many of which you can see here around you today. Because of purchases of energy efficient appliances last year on the first sales tax holiday, some Texans were saving money all year long on their energy bills. I want to remind all Texans to take advantage of this opportunity for saving water, saving energy, and saving money for their homes by purchasing energy efficient products without paying sales tax this weekend.”**

Sen. Ellis continued, **“The American Council for an Energy Efficient Economy released a study that showed how Texas can meet all of its future energy needs with efficiency and renewables. For this to work,**

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we all need to do our part. This sales tax holiday makes it easy for everyone to achieve energy savings. Changing one light bulb that is left on an average of three hours per day from an incandescent bulb to a CFL can save nearly \$10/year. This is just one example of how we can meet the challenge of global warming and reducing pollution while strengthening our economy at the same time."

Texas Retailers Association

The Texas Retailers Association brought examples of the qualifying energy efficient appliances to the press event today.

"The retailers of this state are pleased that their participation in this event assists their communities in making strides towards energy-efficient living, while at the same time providing the hardworking families of Texas some much needed economic relief. We are

hoping that they get that relief as they make their Energy Star-rated purchases May 23-25," said Ronnie Volkening, President and CEO of the Texas Retailers Association.

Sierra Club

The Lone Star Chapter of the Sierra Club promotes energy efficient appliances because they make economic and environmental sense.

"Increasing energy efficiency is by far the cheapest, quickest and cleanest way to meet our energy needs in Texas," said Cyrus Reed of the Sierra Club. **"If you are already thinking of purchasing one of these items, this sales tax holiday makes it affordable for you to buy an Energy Star rated version. You will help to protect our natural resources, our air and water, by reducing the amount of electricity that is needed to burn for your home. In the case of clothes washers and dish washers, Energy Star appliances also reduce the amount of water you need. Buying your energy efficient appliances on Memorial Day weekend's sales tax holiday means cost savings on your utility bills and it helps protect the environment in Texas."**

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The legislation would create (through a small fee on residential, commercial and industrial electric bills) a pot of money that could be used for rebates for on-site solar or large-scale power plants. In addition, the House committee version of SB 545 includes a provision that would allow the creation of a low-interest loan program for solar panels and efficiency upgrades on school and church roofs. The bill now moves to the Calendars Committee.

SB 541 – “Non-Wind” Renewable Energy Standard

The House State Affairs Committee on May 20 voted to favorably report **SB 541** by **Sen. Kirk Watson (D-Austin)** and **Rep. David Farabee (D-Wichita Falls)**, which would create a 1,500 MW goal for emerging renewable technologies like solar, biomass and geothermal energy by 2020 (1500 MW is an estimated two percent of total capacity). The vote in committee was 9-5, with Rep. Hilderbran abstaining and Representatives Cook, Craddick, Harless, Jones, and Turner voting no.

The major argument against the bill (voiced by some retail electric providers and the Texas Association of Manufacturers) was the potential that it could increase electric power costs. Advocates for the bill, such as the Sierra Club, argue that adding new energy sources would ultimately lower costs and prepare Texas for

a world where carbon dioxide emissions will need to be constrained to keep state businesses competitive. If SB 541 passes, it should also send a signal to the renewable energy manufacturers and developers to invest in Texas. The original Renewable Portfolio Standard adopted by the Texas Legislature in 1999 spurred investments in wind power.

**Potpourri**, *continued from page 3***SJR 52 by Sen. Wendy Davis (D-Fort Worth) – Constitutional Amendment for Local Option Funding for Transportation Projects** - This proposed constitutional amendment would have to be passed by both houses of the Legislature and approved by the voters in order for the Senate version of SB 855 to go into effect. SJR 52 was favorably reported out of the House Transportation Committee on May 18. The Sierra Club supports passage of SJR 52.**DESALINATION:
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available from the Chapter website

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Sales Tax Holiday on
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