

LEGAL UPDATES

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# Proposed Bill Seeks to Eliminate the Texas Renewable Portfolio Standard

On Monday, March 23, 2015, Senator Troy Fraser's proposed Senate Bill (SB) 931 was passed through the Senate Committee on Natural Resources & Economic Development and will now be sent to the Senate floor for a vote. This bill, as currently proposed, would significantly impact investment economics for existing and future wind energy development in Texas by effectively eliminating the Texas Renewable Portfolio Standard (RPS) at the end of 2015.

Originally adopted in 1999, the Texas RPS called for 2,000 MW of new renewable energy capacity to be installed statewide by 2009. In 2005, the Texas legislature expanded the program to accommodate 5,880 MW by 2015 and included a target of 10,000 MW by 2025. Texas reached the 10,000 MW mark in 2010, which was 15 years ahead of schedule. As a result, Senator Fraser, who also helped increase the RPS goals in 2005, has introduced SB 931 on the basis that the mission has been accomplished and the need for the RPS no longer remains.

Critics of SB 931 in the renewable energy community disagree with Senator Fraser's sentiment, noting that elimination of the RPS, which has helped catapult Texas to No. 1 in wind energy capacity and No. 2 in renewable energy employment, could have negative impacts for the Texas economy. Among many critiques, opponents have advanced the following arguments:

The bill, as currently proposed, would not only end the RPS, but would also eliminate the Renewable Energy Credits (RECs) associated with the RPS, while voluntary RECs would remain. This would result in the value of all RECs becoming depressed, and project economics becoming less desirable for

developers looking to invest in Texas.

SB 931 would hinder build-out by requiring additional studies for renewable transmission projects without taking into consideration the unique constraints facing the industry.

The bill would reduce Texas's ability to rely on the RPS and the Competitive Renewable Energy Zone (CREZ) lines as compliance measures for the carbon pollution reduction goals of the U.S.

Environmental Protection Agency (EPA), Clean Power Plan. This will result in an increase in the costs of meeting the looming federal reduction goals.

Passage of SB 931 would send a negative political message beyond the Texas border and would be unfair to current investors who have financed projects in Texas based on the RPS commitment.

Elimination of the RPS would undercut a crucial driver of the renewable energy component of Texas's diverse energy portfolio, exposing the market to price volatility while decreasing energy security.

In the wake of such criticism, Senator Fraser has proposed an amendment to SB 931 that would allow continuation of the CREZ transmission build-out, but some renewable energy advocates have stated their belief that when it is drafted it will not finish the CREZ lines in the Texas Panhandle. If the bill passes through the Senate, opponents will undoubtedly attempt to block it in the Texas House of Representatives.

## **Contact Us**

Over the past few years, Husch Blackwell's Renewable Energy group has represented clients in all segments of the industry, including renewable and conventional generators, investor-owned and public power utilities, marketers, customers, investors and landowners.

We will continue to track this and other pertinent legislative issues throughout the session. If you have any particular client needs or questions, please contact Chris Hughes at 512.479.1173.