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STATE CAPITOL REPORT

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Craddick Appoints Interim Committee on Energy A Chance to Address Climate Change in Texas?

In a somewhat surprising development, Speaker of the Texas House Tom Craddick (R-Midland) last week appointed a **nine-member interim committee** to study both current and future electric generation capacity in Texas and its environmental impacts over the next 50 years. In naming the nine-member committee, to be chaired by Environmental Regulation Chair Dennis Bonnen, the Speaker gave **the Select Committee on Electric Generation Capacity and Environmental Effects** the charge to study **the state's demand for electric generation capacity over the next 50 years and how to meet it through new sources and energy efficiency programs**. The Committee is also to examine **the environmental effects of electric generating facilities, *including the effects on global warming and climate change.***

In addition to Bonnen, Craddick appointed several other House committee chairmen to the Select Committee. Those legislators include Border Affairs Chair **Norma Chavez** (D-El Paso), Economic Development Chair **Burt Solomons** (R-Carrollton), Energy Resources Chair **Rick Hardcastle** (R-Vernon), and

Regulated Industries Chair **Phil King** (R-Weatherford).

Also selected for the Committee was Rep. **Sylvester Turner** (D-Houston), who is the Speaker Pro-Tem of the Texas House. In the last session he authored legislation that would have lowered electric rates and would have fully appropriated money from the Systems Benefit Fund for low-income Texans (efforts which ultimately failed). Additional legislators appointed to the Committee were Rep. **Charles "Doc" Anderson** (R-Waco), who led the initial effort in 2007 to impose a moratorium on permitting new coal-fired power plants, Rep. **Kevin Bailey** (D-Houston), and Rep. **Joe Straus III** (R-San Antonio), who authored groundbreaking legislation on energy efficiency in the Legislature this year.

Background

The Select Committee on Electric Generation Capacity and Environmental Effects grew out of legislation authored by Chairman Bonnen

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and approved by the House and Senate to create a joint interim committee on the same subject. The impetus for the legislation was the observation by several legislators that Texas lacked an “energy plan” and was struggling with the controversy of whether to approve additional coal-fired power plants at a time when the state does not meet clean air standards for Dallas and Houston.

“How many plants are actually needed, if any,” legislators asked. “Would other technologies, like wind or solar power, be able to meet the demand? Is ‘clean coal’ actually clean? What role, if any, should new nuclear power plants play in Texas’s future? How much can energy efficiency and conservation contribute to the state’s energy future?”

Much of the controversy over energy policy in Texas was related to the decision of Texas Governor Rick Perry to issue an executive order in 2005 to “fast-track” the air permitting process at the Texas Commission for Environmental Quality (TCEQ) for new electric generating facilities in Texas. That was followed by more than a dozen coal-fired power plants seeking fast-track approval.

Legislative Actions

Once the legislative session began, multiple bills on the permitting process were filed in part as a reaction to the Perry Executive Order. Midway through the session, Chairman

Bonnen scheduled a public hearing not only on HB 2713 – which would have created the joint interim committee to come up with an energy plan – but also on approximately 20 other bills which dealt with various aspects of permitting coal plants, including proposals for a moratorium.

With the exception of the energy planning bill, however, Chairman Bonnen did not allow these proposals out of his committee, although several legislators – including the Chairman -- did continue to question the permitting process as well as the lack of coordination between the different state agencies in Texas that deal with energy issues to whatever degree. The announcement in February by private investors intent on taking over Texas power giant TXU that they intended to cancel eight of the proposed coal-burning power plants blunted the momentum to pass legislation to either freeze or significantly improve the permitting of new coal plants.

While Chairman Bonnen’s original bill did not include a specific reference to global warming or climate change, he later amended it to include looking at climate change and global warming. He also added energy efficiency as one of the means to meet energy demand, changes that were suggested by Sierra Club among others. (Interestingly as well, Chairman Bonnen’s Environmental Regulation Committee is also studying the air permitting process over the interim period.)

House Interim Study Charges Announced Opportunities, Challenges for Environmental Groups

During the last week of November the Speaker of the Texas House, Tom Craddick, announced a series of interim study charges for the standing committees in the House. These are the topics or issues that will be examined by the regular committees of the House during the current “interim” between regular sessions of the Texas Legislature. Many of the interim studies will produce recommendations that result in legislation drafted for introduction in the next legislative session in January 2009.

Most of the interim studies are not directly related to the environment or energy matters, but some are, and some others are more general in nature but may have implications for issues of concern to the Sierra Club and other environmental groups. Below is an overview of **some** of the interim topics that the Sierra Club will be following in 2008, organized by the House standing committee to which the study topics were assigned.

Agriculture and Livestock Committee

This committee has been given a number of topics to study, the most relevant to interests of the Sierra Club being:

- monitor the development and implementation of the 2007 Farm Bill and determine the impact of the legislation on Texas agricultural producers (of course, as of this writing, the U. S. Congress has not yet passed

the 2007 Farm Bill, so everything is speculative at this point; but the Farm Bill in recent years has had some very positive land and water conservation initiatives);

- study and evaluate the feasibility and potential economic impact of **biofuel production** from alternative feedstocks such as biomass, waste oils, and processed animal fats.

Appropriations Committee

Among the charges assigned to the House committee responsible for shaping the state budget is the somewhat ambiguous responsibility to “examine alternative spending limit methodologies found among various states as they impact state and local spending and recommend potential changes to the Texas budget process to bring long-term, innovative **strategies to control costs of major government programs.**” That sounds like perhaps just a “good government” type study, but it is also possible that the study could be used as a vehicle for limiting state agency spending, which would hit hard many of the already under-funded state agencies the Sierra Club monitors.

Culture, Recreation & Tourism Committee

Several interim study topics given to this
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committee, which monitors Texas Parks and Wildlife Department (TPWD) and the Texas Historical Commission (THC) – among other agencies, relate directly or indirectly to concerns of the Sierra Club and other conservation groups. These include the following:

- review the transfer of historical sites to the THC from TPWD (concerns about the impact of the transfer on the state parks system were major issues during the 2007 state legislative session);
- review the process and procedures related to **use of open space land** owned by the state as they relate to hunting, fishing, and outdoor recreation; and
- research and explore new ways to promote and improve economic development tourism in the state.

Economic Development Committee

In a joint interim study with the House Committee on Energy Resources this Committee is charged with studying the use of the Texas Economic Development Act (enacted in 2001) to determine “how the act may be enhanced to better attract significant capital investments by science and technology industries developing **alternative energy sources**.”

Energy Resources Committee

In addition to the joint study on alternative

energy sources with the House Economic Development Committee, the Energy Resources Committee is tasked, among other things, with the following charges:

- examine whether the Railroad Commission of Texas should regulate **carbon capture**;
- discuss alternative energy sources and how best to incorporate them into our traditional energy sector;
- study the potential benefits of biofuels in Texas, including Texas feedstocks best suited for biofuel production and synergies between that industry and the traditional energy sectors;
- develop recommendations for facilitating the growth of the biofuel industry in a manner that best positions Texas in the national market; and
- research ways to maintain **groundwater quality in relation to oil and gas exploration** through economic incentives for innovative technology options.

Environmental Regulation Committee

This committee has been charged with studying a wide variety of topics, including the following:

- the Clean Air Act State Implementation Plan (SIP) and **the trend in levels of air quality in Texas since 1980**;
- the progress of the Texas Emissions Reduction Plan (TERP) and the program to aid low-income people in repairing, retrofitting, and/or retiring

older vehicles to reduce mobile emissions of air pollution;

- the **state air pollution control permitting process**;
- penalties and sanctions imposed on vehicle inspection and emissions testing facilities; and
- **“Green Chemistry,”** which refers to the design of chemical products and processes that reduce or eliminate the use and generation of hazardous substances (for more information on Green Chemistry, follow this U.S. EPA website link:
http://www.epa.gov/greenchemistry/pubs/whats_gc.html).

Land & Resource Management Committee

The House Land & Resource Management Committee has the following topics assigned for study during the interim:

- the **authority of the General Land Office, the School Land Board, and similar state agencies to engage in various types of real estate transactions** and determine the appropriateness of this authority (can you say “Christmas Mountains,” boys and girls?);
- the **exercise of eminent domain law**;
- the **effectiveness of the Private Real Property Rights Preservation Act (the old “takings” bill enacted in 1995)**;

- policies of other states as to how they treat **wind resources as a property right**;
- and recent attempts by municipalities to treat regulatory authority beyond city limits and extraterritorial jurisdiction (this study topic was sparked by the recent attempts of the City of Houston to regulate toxic air pollution from outside its boundaries).

Natural Resources Committee

Among topics of direct concern to the Sierra Club that were given to this Texas House committee are the following:

- the regulatory model for investor-owned **water and sewer utilities**;
- the **implementation of legislation (enacted this spring) on environmental flows allocation and water conservation** (HB 3, HB 4, and SB 3);
- the process for creation of **Municipal Utility Districts**;
- the current efficacy of **flood control devices** in Texas; and
- the **fee structure for water programs** at the Texas Commission on Environmental Quality (TCEQ).

Regulated Industries Committee

This committee, which deals with the Public

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While the Bonnen bill passed both the House and Senate, Governor Rick Perry vetoed the legislation. The Governor said that legislation was not needed to look at the issue and that either house could decide to look at the issue through the usual interim study process. Chairman Bonnen and Speaker Craddick apparently took the Governor up on his “suggestion.”

Scope of the Committee Charge

The proclamation by Speaker Craddick actually gives the Special Committee wide latitude. First, it calls on the Committee to study the demand for energy over the next 50 years and the technologies to meet those demands that are available. Secondly, it calls on the Committee to look at the environmental effects of current electric generators, including global warming.

Finally, it asks the Committee to file a long-term electric energy and environmental

impact plan to meet Texas’s energy needs and specifically to look at how much of that need can be met through energy efficiency programs. The plan must be submitted to the Speaker by December of 2008, giving the Committee a short-time span for such a large task.

A Sudden Interest in Global Warming?

In the past, Texas legislative leaders – including Speaker of the House Craddick -- have not considered it important to look at the issue of global warming. The Craddick announcement may represent an opportunity to change that, although Governor Perry and Lt. Governor Dewhurst, presiding officer of the Texas Senate, have indicated that they are global warming skeptics.

Earlier this year, long-time State Rep. Warren Chisum (R-Pampa), Chairman of the powerful House Appropriations Committee, announced the formation of a **Carbon Caucus**, an informal legislative caucus to discuss climate change and carbon emission issues. The Caucus has already grown to more than three dozens members.

Something is afoot here, although the ultimate ramifications of these recent events are far from clear. Certainly there is a danger that some of these efforts might lead to an unwise push for nuclear power or a focus on unproven ideas such as carbon sequestration.

On the other hand, while no one expects



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a deregulated utility state like Texas to dictate when and where electric power plants will be built, the Plan could set general guidelines and processes to assure that preferences are given to generation sources that actually meet a demonstrated need, and that some attention is given to the environmental impacts of those sources. In addition, the plan could serve as a platform to finally address issues like climate change as well as how to maximize energy efficiency programs.

Thus, from Sierra Club's perspective, the Select Committee provides a forum to lay out general principals for a good energy policy that can serve Texas's long-term needs in a cost-effective, environmentally responsible manner.



Reminder!

December 31 is the Deadline
for Comments on the Draft
Environmental Impact
Statement (DEIS) for the
Proposed Border Wall in the
Lower Rio Grande Valley.

Go to

<http://noborderwall-take-action.blogspot.com/>

for more information about the
DEIS and how to comment.

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Utility Commission and related issues, is charged during the interim with, among other things, with researching the effects of both wholesale and retail competition in the Texas electric market.

Transportation Committee

The House Committee on Transportation has been given a wealth of interim study topics but the one of most interest to the environmental community in Texas is to study the concept of using corridor planning organizations to provide a mechanism for local involvement in the Trans-Texas Corridor.

Summary

The above is not necessarily an exhaustive list of all the new House interim study topics that may be of relevance or significance to the environmental community in Texas, but they represent the bulk of the ones most likely to draw attention. At this point most interim study committees are not likely to meet until sometime after the first of January in the coming year. It's going to be a busy year.



Happy Holidays and Best
Wishes for the New Year!
- from the Sierra Club
Lone Star Chapter Staff



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