



SIERRA CLUB

LONE STAR CHAPTER

Comments in Support of HB 92 (Landgraf)

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Dear Chair and Members of the House Committee on Agriculture and Livestock,

The Sierra Club is in general support of HB 92, which would establish the basic right for homeowners to farm, have small livestock, add water conservation devices like rain barrels and promote energy independence through the use of solar, wind and back-up generation. At the same time, we do believe there is a need to balance these basic rights with reasonable regulation. Importantly, HB 92 does have some language to assure reasonable regulation for cities, though some specific language is needed for reasonable regulation on electric generators, solar and wind. We would also suggest adding energy storage to the list of items that should be protected, since energy storage systems are ways to allow customers to better use their solar or other energy generation.

Balancing private property rights with reasonable regulation is important

Texas is growing. Texans want the right to be good stewards of their land, be able to use their land for self-sufficiency, whether raising eggs for chicken or rabbits, or putting back-up generation, solar, wind or storage to keep their electricity bills low, or provide power during outages, or capture rain on their land.

While cities and other political subdivisions should have some ability to provide some reasonable regulations for health and safety, having a basic right to self-sufficiency in your homestead is an important Texas value.

Sierra Club supports the legislation but believes that language should be added that reflects compromises made on solar made in SB 398, approved last session and signed by the governor, which we believe could also apply to distributed wind and storage. In addition, we believe it will be important to allow some regulation of back-up generators, particularly with regard to potential impacts on air quality.

Specifically, SB 398 added language to the Business and Commerce Code in Section 299, which state:

SUBCHAPTER C. REGULATION OF SOLAR ENERGY DEVICES

Sec. 229.101. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section:

(1) "Municipally owned utility" has the meaning assigned by Section 11.003, Utilities Code.

(2) "Small commercial customer" has the meaning assigned by Section 39.202(o), Utilities Code.

(3) "Solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) A municipality may not prohibit or restrict the installation of a solar energy device by a residential or small commercial customer except to the extent:

(1) a property owner's association may prohibit the installation under Sections 202.010(d)(1) through (7), Property Code; or

(2) the interconnection guidelines and interconnection agreement of a municipally owned utility serving the customer's service area, the rules of the Public Utility Commission of Texas, or the protocols of an independent organization certified under Section 39.151, Utilities Code, limit the installation of solar energy devices due to reliability, power quality, or safety of the distribution system.

Thus, we would suggest that language be added to the bill that allows cities, and municipal utilities and electric cooperatives to impose reasonable regulations on solar, wind (and storage), while also respecting some ability of property right owners to provide for their own electricity and back-up generation. The bill already contains language allowing reasonable regulation for other issues and we believe that having similar language would improve the bill.

We have included a mark-up of the bill with some suggested changes to add electric storage, add provisions from SB 398, and add language related to back-up generators.

The Sierra Club is supportive of HB 92, but believes some additional provisions are needed to allow for reasonable regulation of solar, wind, and on-site generators related to safety, interconnection standards and air quality. We look forward to working with Chairman Landgraf and the Committee as the bill moves through the process.

