

The Sierra Club's 87th Session Legislative Goals & Priorities

Briefing: January 29, 2021

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Framework

- ▶ Where to find our information
- ▶ Budget: The Only Bill that Must Pass
- ▶ Deep Dive: Sierra Club five areas of prioritization
 - ▶ Community Protections
 - ▶ Clean Energy, Transportation and Climate
 - ▶ Land and Parks
 - ▶ Water
 - ▶ Democracy and Local Control
- ▶ Q & A and discussion
- ▶ Next steps: How to engage with us going forward

Want to know our positions or priorities?



Go to

sierraclub.org/texas/texas-legislature-1

Welcome to the Sierra Club's Lone Star Chapter Texas Legislature Page!

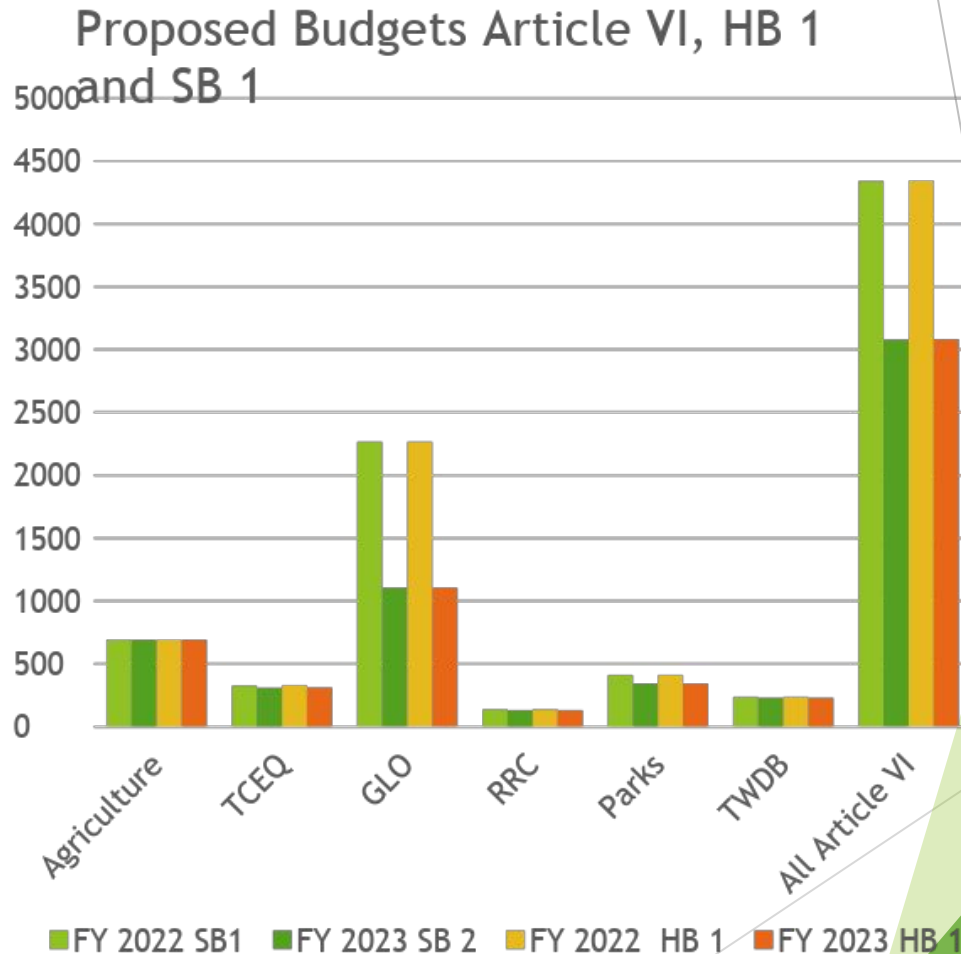
From this page you can:

- Find out [who represents you](#).
- Contact your State Senator and State Representatives in our [Alert Center](#).
- Sign up for a workshop in our [Building Power to Win](#) series and connect with others who want change.
- Review our [Bill Tracker](#).
- Read our 2021 [legislative priorities](#).
- Read our written testimony and fact sheets on specific bills (coming in 2021).
- See how your legislator did on our [2019 Legislative Scorecard](#).
- Sign up to receive [email updates](#) on legislative action.

**As the session gets into high gear, this section of our website will be updated with new information and resources,
so be sure to bookmark it and check back!**

What's the only bill that must pass?

- ▶ BUDGET
- ▶ Sierra Club focus will be on Texas Parks and Wildlife, TCEQ, Railroad Commission and Texas Water Development Board, as well as some other agencies related to energy efficiency (SECO, PUC and TDHCA).
- ▶ What do we think about SB 1?
 - ▶ Good news generally compared to what was expected
 - ▶ Very little difference in Article VI between two bills



Only one bill must pass: the budget

- Our RRC Priorities

- Increasing inspections and use of new technology like drones and hand-held cameras
- Assuring adequate funding for well clean-up - Base budget includes \$57 million per year. We would like to see \$72 million for clean-up to get to 1500 wells per year.
- Increase transparency of enforcement and flaring data
- Proposal: Move expectation at RRC from inspecting wells and pipelines once every four years to once every two years

- Our TCEQ Priorities

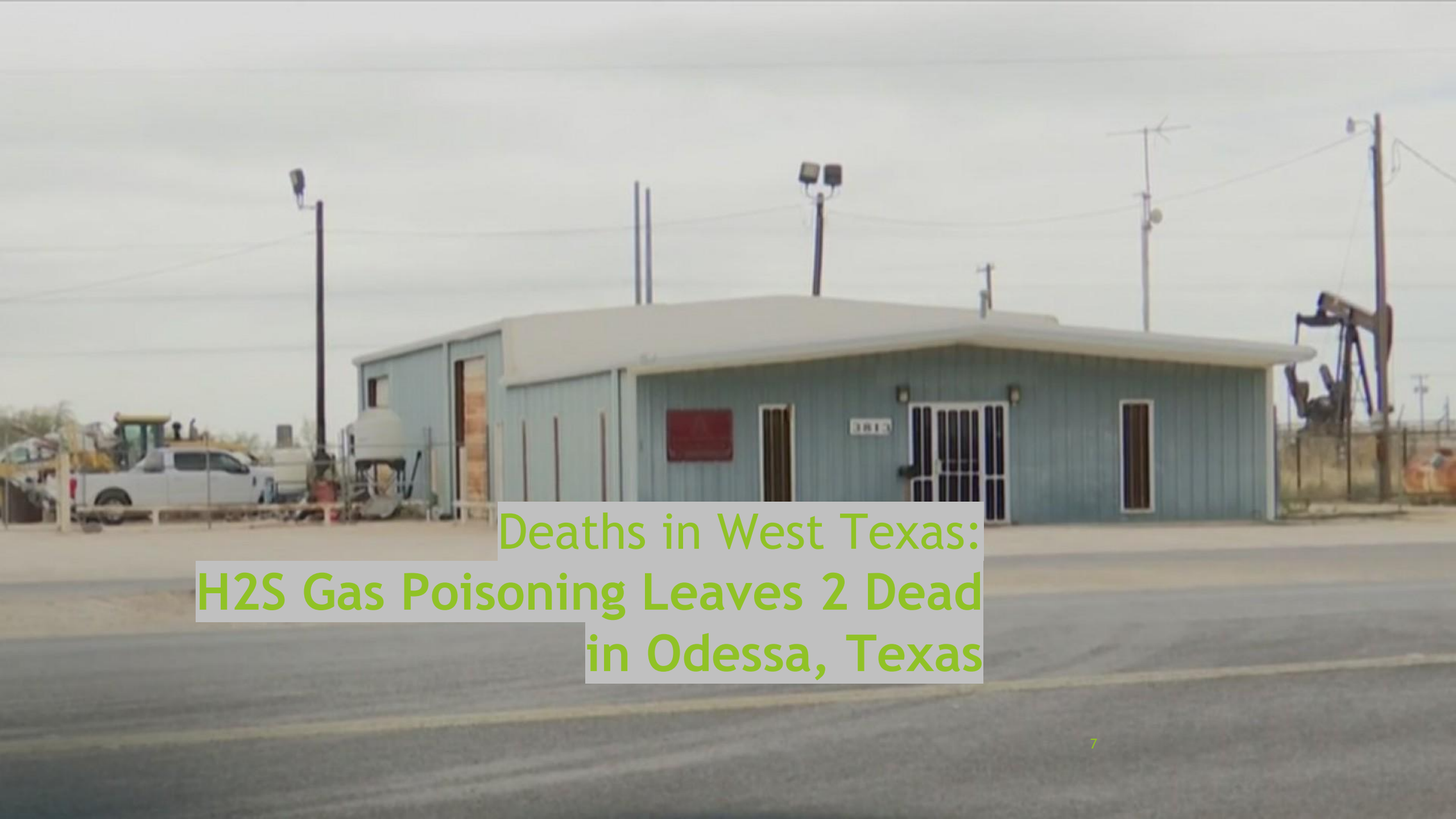
- Support base budget, which includes additional West Texas air monitoring and mobile monitoring equipment but
- Support \$ for additional stationary monitoring - including PM - in Houston, Corpus Christi and ozone in Midland/Odessa
- Assure that spirit of HB 3745 is realized and assure that all \$250 million per year is allocated to TCEQ for TERP including oilfield cleanup
- Need for removal of rider that prevents TCEQ from looking at further oil and gas regulations
- Additional money to complete Water Availability Modeling for remaining river-basins

Air Quality: Monitoring and Standards Needed

TCEQ and RRC must step up on monitoring and standards in the Permian Basin and Other Oil and Gas areas:



1. **There are just a handful of air quality monitor in West Texas. TCEQ Base budget does include some additional sulfur and hydrogen sulfide monitoring**
2. **TCEQ monitoring annual plan must be expanded to add additional mobile monitoring, drone technology and Ozone, PM 25, Sulfur Dioxide and Hydrogen Sulfide monitoring in Corpus, Houston, Permian Basin and El Paso.**
3. **Odessa/Ector should be declared non-attainment for sulfur dioxide & ozone and needs a clean-up plan including expanded monitoring**
4. **Hydrogen Sulfide a particular issue; current standard of 80 PPB does not match science**

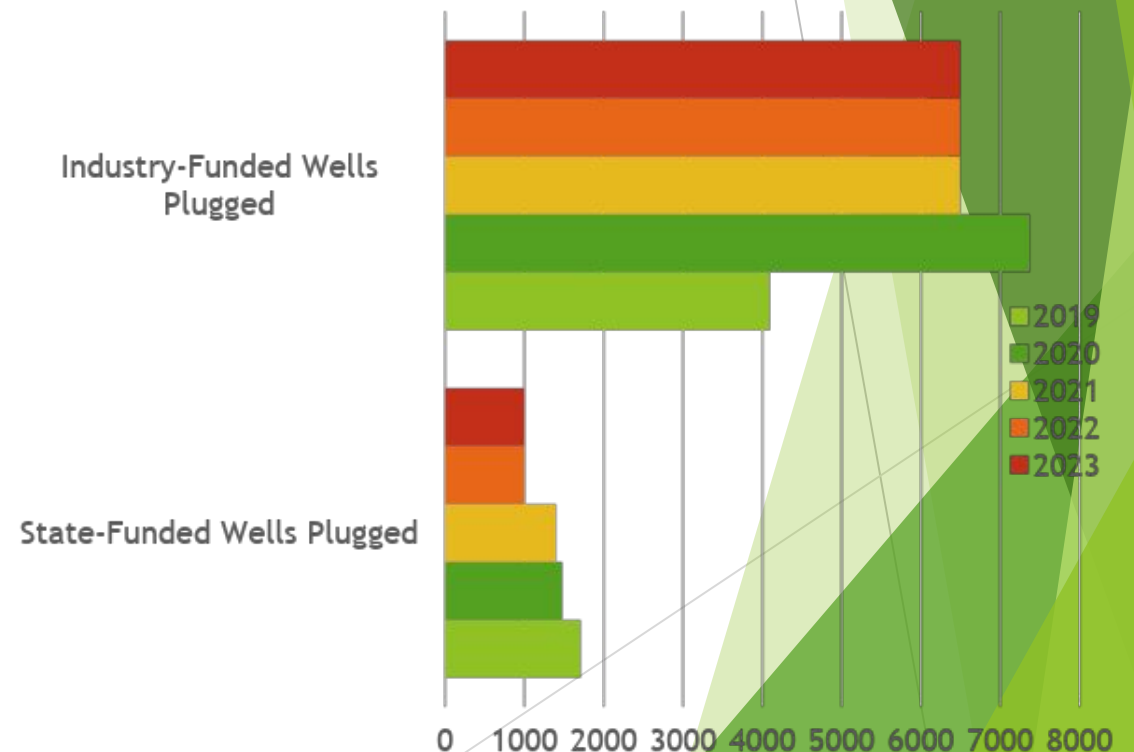


Deaths in West Texas:
H₂S Gas Poisoning Leaves 2 Dead
in Odessa, Texas

Well Plugging and Clean-Up: Progress Needed

- Texas has a successful state clean-up program and the Legislature has put more money over last two cycles
- But with an estimated 155 bankruptcies in Texas and laxer RRC rules there is a potential for a huge increase in abandoned wells
- RRC LAR anticipates spending \$57 million per year on well plugging after spending \$72 million last two years.
- Proposal: Reform bonding requirements to increase revenues and spend revenues to get us back to 1400 well pluggings per year. Do not use GR funding. Increase budget by \$30 million.

State-Funded and Industry-Funded Wells Plugged



To ensure the state can cover clean up costs, we need to increase certain permit fees and bonding amounts.

Texas relies on GR, Rainy Day Fund and Oilfield Clean-Up Fees to Plug Wells and Cleanup Oilfields

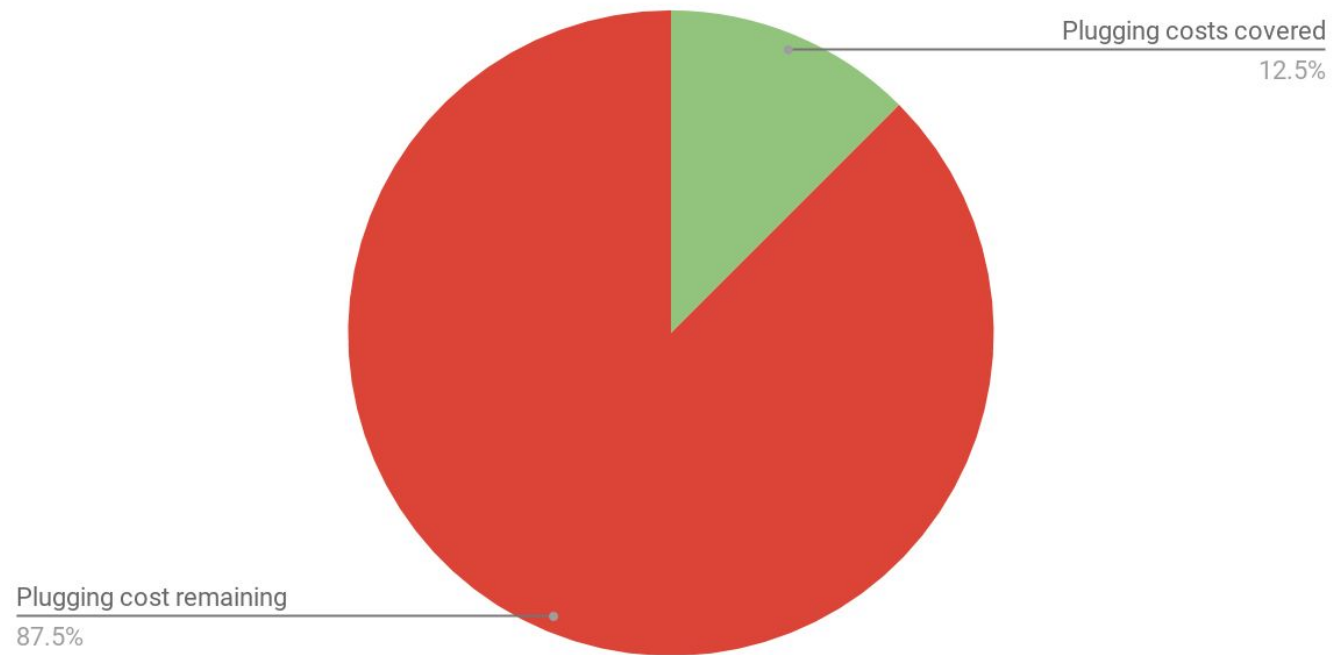
We need reforms to give more impetus to industry to do the right thing and increase revenues to the state to clean-up

Our minimum bond amounts are too low

- **\$20,000:** Average cost of plugging a single well in Texas
- Including site remediation? Over \$41,000
- Yet...
- Minimum bond requirement in case of bankruptcy is:
 - \$25,000 total for up to ten wells (not enough for 2+ wells)

Minimum bond for 100+ wells: \$250,000

Texas' \$250,000 minimum bond cannot insure plugging costs for 100+ wells



- Plugs 12/100 wells at best
- Texas left on the hook for \$1.75 million in case of bankruptcy

With abandoned wells on the rise, it's critical that we act now



Texas Water Development Board

- Support the appropriations recommended by LBB for the Texas Water Development Board, with priority support for the following categories:
- **Debt service for the Economically Distressed Areas Program (EDAP)** to provide water and wastewater services in low-income and socially vulnerable areas of the state that lack a clean and dependable water supply and the financial resources to obtain those services on their own
- **Full funding for TWDB's water conservation and water loss control activities, and funding for an additional one to two FTEs to implement these responsibilities more effectively**
- **Full funding for TWDB to implement the flood mitigation and flood planning programs** created by the Legislature in 2019
- We recommend that the Legislature again take funds out of the state's Economic Stabilization Fund ("the Rainy Day Fund") to continue a stream of financial assistance from the new Flood Infrastructure Fund (FIF) to meet the critical flood mitigation needs of the state, with special emphasis on promoting nature-based solutions for flood risk reduction and mitigation

Other budget

TPWD budget looks good for state parks but..

- ▶ Continued need for money and authority for acquisition and park development
- ▶ Need for diversification of funding for wildlife - we suggest study

- ▶ PUC
 - ▶ May need additional staff in energy efficiency, transmission planning

 - ▶ SECO and Energy Systems Lab - continued need for funding properly to get credit for our efforts at saving energy and restricting air pollution

Our Leg Priorities: Community Protections



Community Protections: Key Bills

- ▶ Improve and Enact Performance standards for Above-Ground Petrochemical Storage Tanks, and Require Safety Standards to Lower Industrial Accidents (SB 126/HB 711)
- ▶ Expand and Improve Air Quality Monitoring along the Gulf Coast and in Permian Basin
- ▶ Consideration of cumulative impacts, improved community monitoring, and consideration of environmental justice in state permitting decisions
- ▶ Enhance Public Participation on Environmental Permitting at the TCEQ through Improved Notice and Requirements for local government, citizens and organizations concerned about pollution impacts from permits
- ▶ A number of bills have been filed on the permitting process and Aggregate producers that we support

Community Protections: RRC reform

- ▶ Continue to improve oversight and regulation of oil and gas activities, including:
 - ▶ Increase administrative penalties on oil and gas facilities by raising maximum penalties from \$10,000 to \$25,000 or \$30,000;
 - ▶ Methane controls and limits on use of flaring
 - ▶ Higher requirements on bonding for oil and gas wells to assure clean-up
- ▶ Change the name!
- ▶ Ethics reform
- ▶ Create improved standards for underground wastewater disposal injection wells
- ▶ Eliminate potential for direct discharge of fracked wastewater in West Texas

Enforcement & Compliance



RRC has sufficient authority to assure compliance with safety & environmental laws; but...

1. **Levels of fines through penalty matrix and even severance orders have not provided deterrence;**
2. **Economic benefit not considered;**
3. **Too few inspectors -- not enough cops on the beat**
4. **Transparency and access to enforcement data on oil and gas has only recently improved after years of advocacy, but still no access to pipeline data**
5. **Transparency and access to complaint data and results of complaints is problematic**

Just the facts, ma'am

	2016	2017	2018	2019
Oil and Gas Inspections Performed	134,484	116,019	130,064	133,187
Alleged Violations	61,189	44,578	29,964	21,806
Complaints	680	560	523	501
Complaints Resolved	664	514	432	422
Severance/Seal Orders	9,481	10,284	10,822	14,357
Total Severance Fines	\$2,116,879	\$1,722,908	\$2,262,900.00	\$2,121,494.00
Repeat Violations over Last 7 years	108	127	81	87
Total Cases Sent to Enforcement	1,211	1,309	1,703	1,618
Number of Enforcement Dockets	262	310	257	227
Total Fines Issued	\$3,603,050	\$5,048,940	\$5,719,149	\$6,991,949

Fines are still too low, both statutorily and in outdated penalty matrix - Pass HB 1043 (ANCHIA)

- Policy is compliance not deterrence
- Economic benefit not considered
- Penalty matrix allows operators to flare without a permit or not report a spill and pay a slap on the wrist -- ridiculously low fines
- Statutes for Railroad Commission set maximum daily fines for oil and gas violations in 1983 at \$10,000 per day per fine and \$5,000 per day for certain water violation fines as compared to \$25,000 at TCEQ and \$50,000+ at EPA
- Statutes for Railroad Commission for pipeline violations were adjusted by Legislature in 2011 up to \$200,000, but industry opposition has prevented updated oil and gas maximum statutes
- 1983 a long time ago!



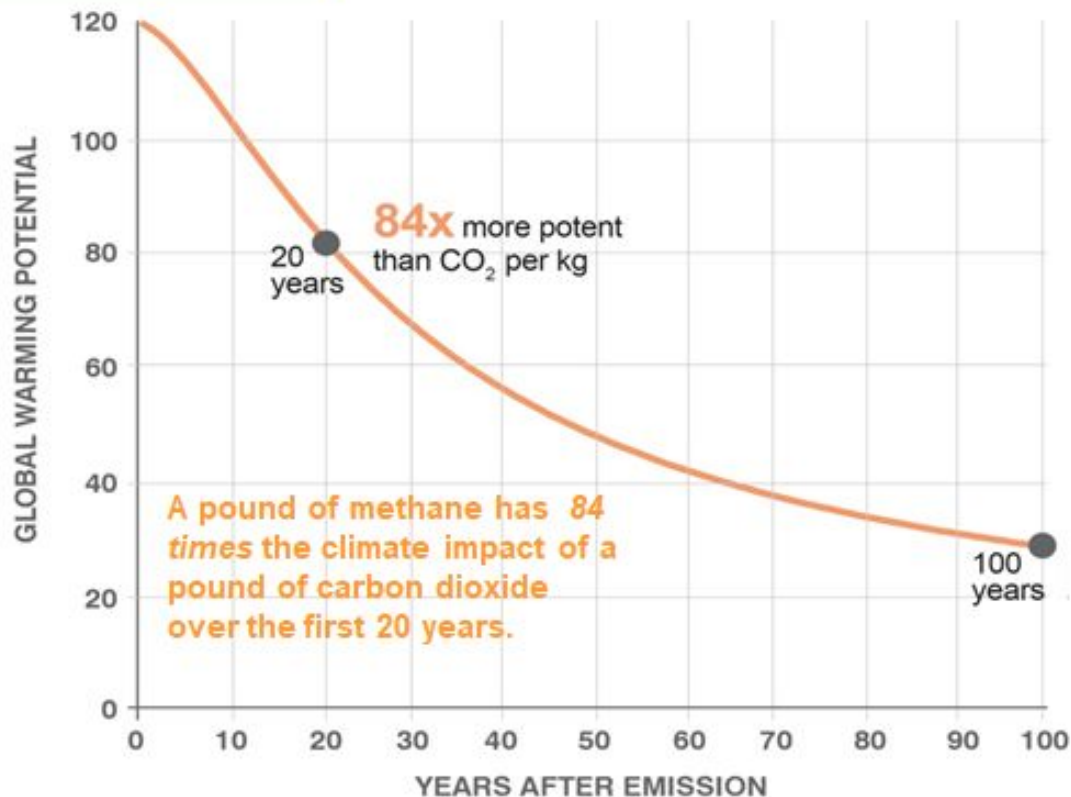
1983
Cell
Phone



2021
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Problem Methane, Flaring and Venting

THE METHANE PROBLEM



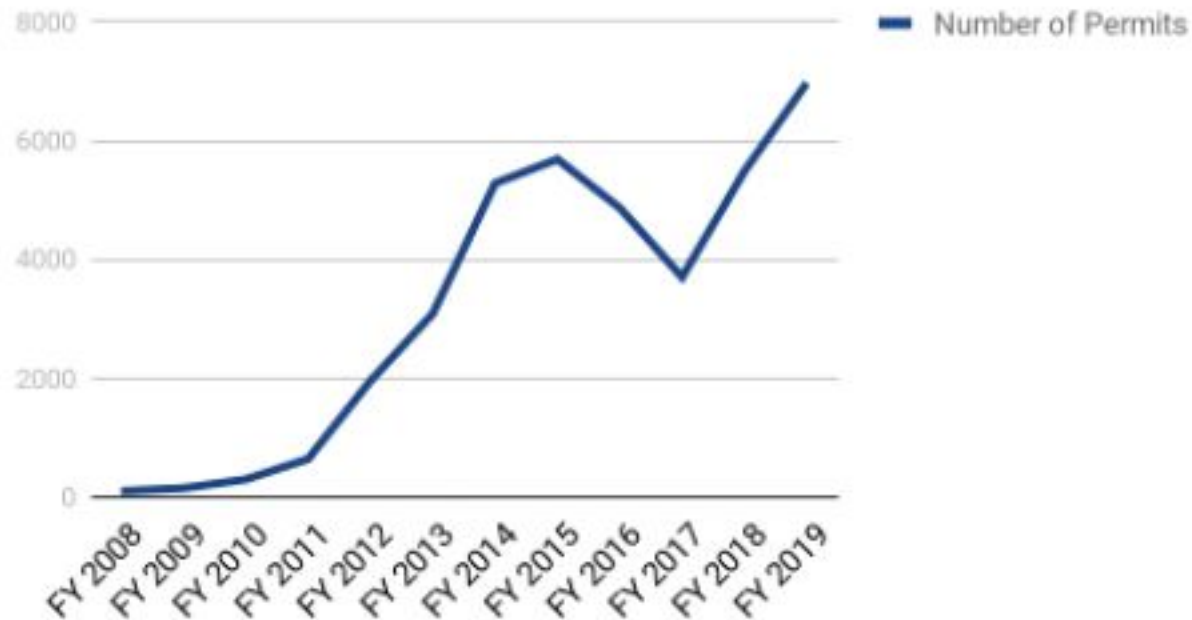
- Methane is a powerful climate pollutant
- Methane is causing 25% of the warming we are experiencing today
- Cost effective solutions exist for industry to reduce emissions
- Multiple states have adopted methane regulations - CO, PA, WY and now NM. Federal methane regulations were rolled back by Trump, Biden expected to take action soon

Methane rules at TCEQ

- ▶ While RRC is in charge of initial well drilling and completion and flaring exceptions, TCEQ is charged with air pollution generally, and provides air permits for oil and gas sector
- ▶ TCEQ rules on methane are outdated and rely only on federal NSPS 0000 standard which were recently relaxed under Trump
- ▶ Under Texas rules, only 5% of wells required to use gas imaging technology to find methane leaks
- ▶ Other states have moved forward on state methane rules
- ▶ Texas can do the same, with or without legislative direction
- ▶ We can reduce methane emissions by 65% in new and existing wells and associated equipment affordably

Venting and Flaring

Exceptions to Statewide Rule 32 (Flaring Exceptions)



- Railroad Commission has authority over initial flaring and venting of wells and associated equipment
- RRC has full authority to limit or eliminate flaring and venting
- Recent study by RRC found that a quarter of operators were not meeting their flaring exceptions
- We could set a zero routine flaring standard by 2025 based upon leading industry goals.

Legislative Solutions Venting and Flaring

Legislature can

Order TCEQ to establish state standards for methane that would require operators to meet science-based standards to reduce VOC and methane emissions at wellhead, compressor stations, storage tanks, processing facilities and pipelines, as well as Leak Detection Programs; (HB 896 and HB 897 - Ron Reynolds)

Order RRC to establish a zero-routine flaring (and venting) goal by 2025 (HB 1452 - Rosenthal)

Create no flaring policy on University Lands (Eckhardt)

Tax flared gas to encourage no flaring - HB 1377 (Jessica Gonzalez) and HB 1494 (Vicki Goodwin)

Utilize part of TERP funds to get oil and gas companies to invest in new technologies to capture gas and other pollutants.

Clean energy development around renewables, storage and energy efficiency

- ▶ Energy efficiency- 1 % energy efficiency goal, appliance standards and building codes
- ▶ Pass an Electrification Transportation Act that moves Texas forward on new electric vehicle and electric transit policy
- ▶ Renewable Energy/Clean Energy
 - ▶ Create a statewide goal to achieve 50% renewable energy by 2030;
 - ▶ Create a New Energy Transition Committee at the Comptroller of Public Accounts
 - ▶ Create and encourage a statewide “Solar on Schools” program and Distributed Solar Rights Bill
- ▶ Climate Action
 - ▶ Include climate reality in our strategic plans
 - ▶ Require a biannual carbon emissions inventory and footprint report by key state agencies

PUC Reforms

- ▶ Clarify rules on ownership and control and encourage utilities and third-parties to utilize “non-wires alternatives” like electric storage, energy efficiency, demand response, and renewable onsite generation to provide reliability services
- ▶ Allow non-ERCOT transmission and distribution utilities to “secure” early retirement of fossil fuel plants, as well as worker transition and renewable energy development, through financial mechanisms
- ▶ Bolster the transmission process at the Public Utility Commission and ERCOT to resolve constraints that impact generation, and to enable economic transmission and bulk transmission projects to proceed more readily

Energy Efficiency: The Untapped Resource

Texas was first state to enact an Energy Efficiency Resource Standard (EERS) - a required goal for transmission and distribution utilities - but is now ranked 25th of all states on EERS policy

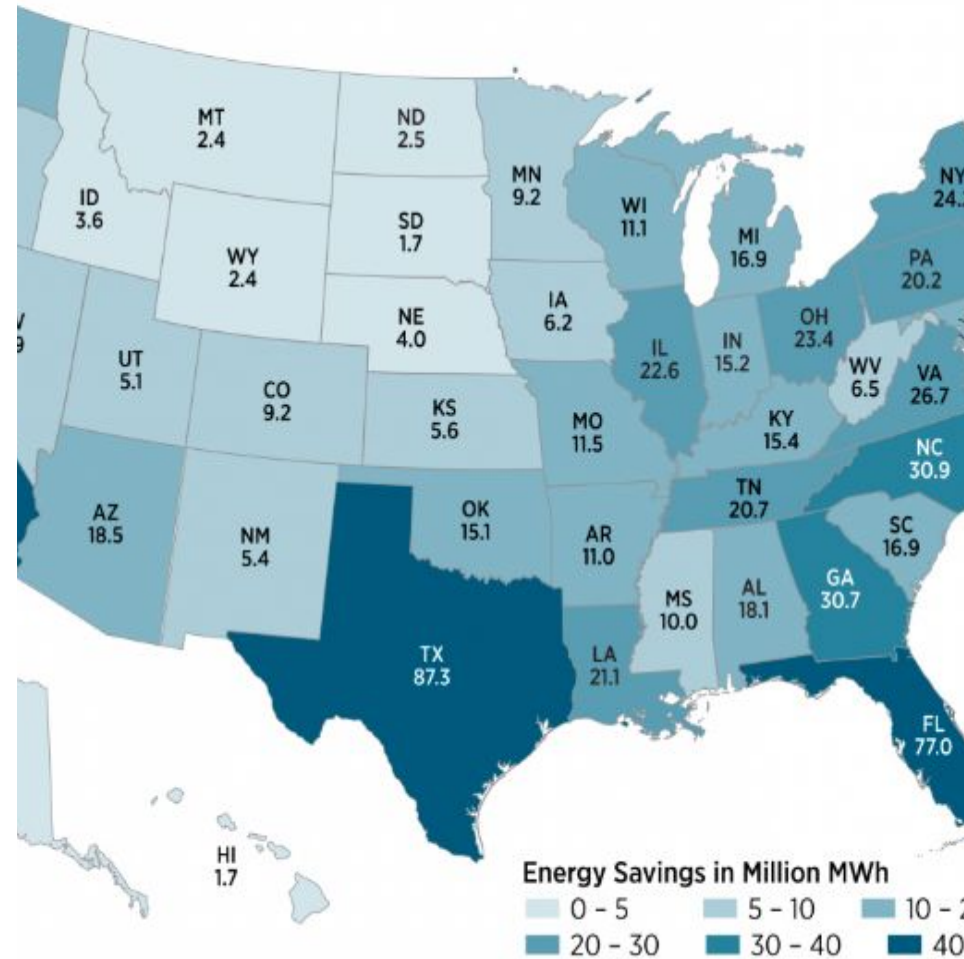
Texas IOUs help reduce peak demand by nearly 500 MWs (a coal plant worth) but our potential is much greater

Texas' goal is based on 0.4% of peak demand

Texas should adopt a 1 percent energy savings goal to prioritize savings for energy consumers, lower emissions and create jobs

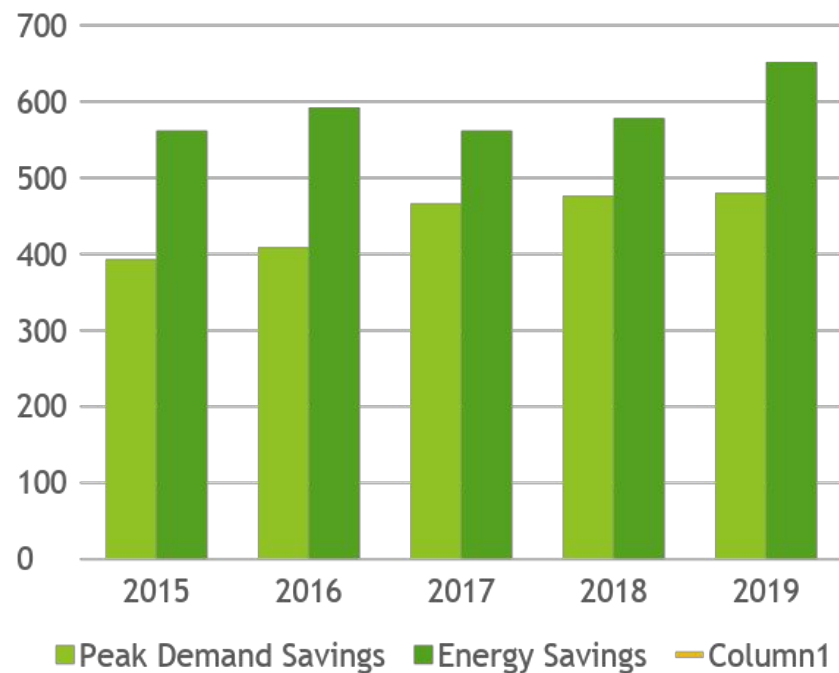
Texas should expand and extend reporting requirements for municipal and electric cooperatives

Total Economic Electricity Savings Potential (2035) by State (million MWh)



Texas Energy Efficiency Goals & Programs: Big Success but Room for Growth

Texas Utility EE Peak Demand
and Energy Savings by Year



- ▶ In 2020, Tetra Tech, which evaluates all Public Utility Commission IOU Utility efficiency programs, found Texas utilities in 2019:
 - ▶ Reduced peak demand by 479,912 Kilowatts at lifetime savings cost of \$16.94 per kW.
 - ▶ Reduced overall energy use by 651,950,647 Kwhrs at lifetime cost of \$0.01 per kWh.
 - ▶ In highest rated programs, residential consumers saw energy use reduced by 10%
 - ▶ In highest rated program, low-income consumers saw 20% reduction in energy use
 - ▶ Previous studies have found a six-to-one benefit to the economy compared to cost of programs
 - ▶ Tens of thousands of jobs have been created through the EE programs, which include solar rebates, and are implemented by private, third-party independent businesses known as ESCOs

State Action on Building Codes

- ▶ SECO (State Energy Conservation Office) adopted 2015 Energy Codes in 2016 that have helped reduce energy use in new construction;
- ▶ SECO has adopted advanced energy and water conservation provisions for state-funded buildings and begun a review of high performance
- ▶ SECO likely to begin review of 2021 energy codes for possible action next year following publication.
- ▶ Texas Department of Insurance recently adopted the 2018 International Residential Code for Texas's 14 coastal counties for builders that want access to the state windstorm insurance (TWIA)
- ▶ Despite these regulatory advancements, our state codes are still based upon the 2006 IRC, and many areas lag behind on modern, safe, resilient codes.

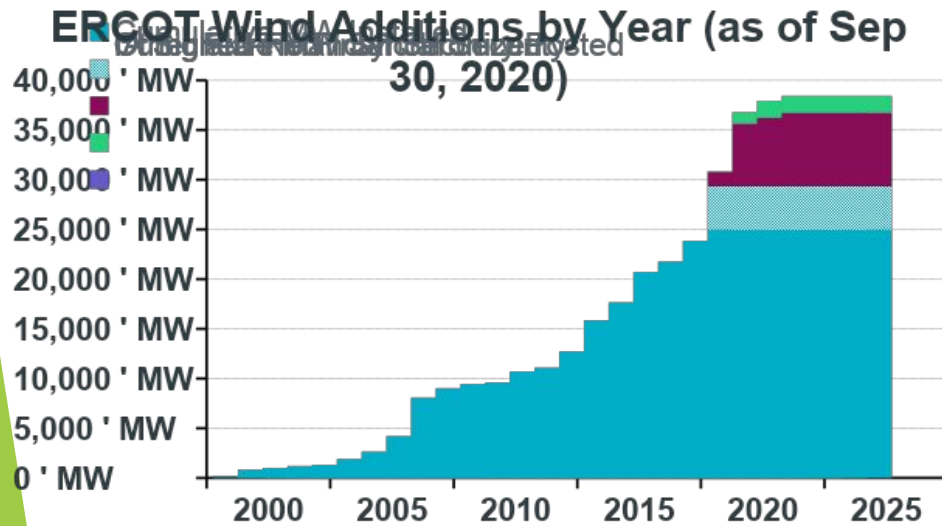
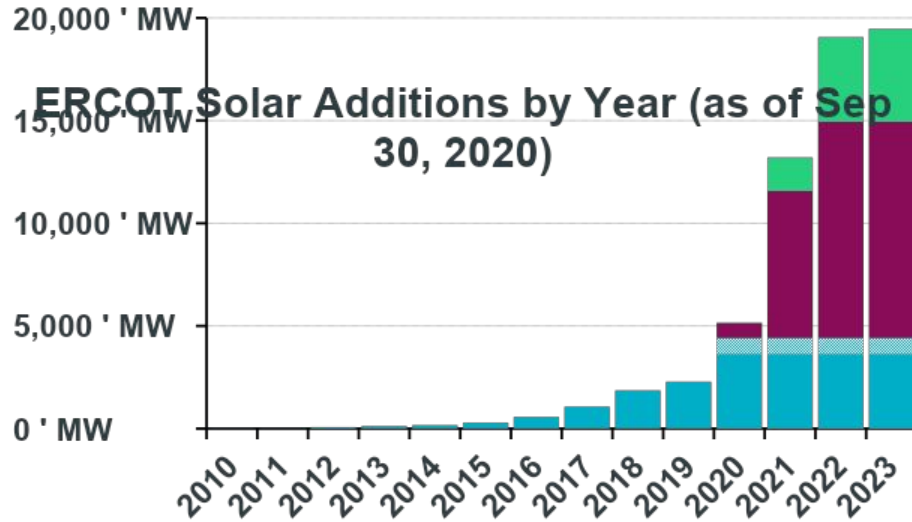
Texas could adopt & update existing state appliance standards to save gas, water and energy, money and air pollution

Type	Electric (GWh)	Natural Gas (TBtu)	Water (billion gallons)	NOx (tons)	SO2 (tons)	CO2 (Thousand MTs)
Faucets	5,402	32.8	142.5	2,145	491	3,901
Air Purifiers	4,932	_____	_____	597.3	449.6	1,975.6
Computers	7,835	_____	_____	963.2	719.9	3,213.4
Showerheads	4,187	24.9	74.8	1,640.9	380.8	2,998.5
All (18)	31,590	98	628	8,321	2,887	18,032

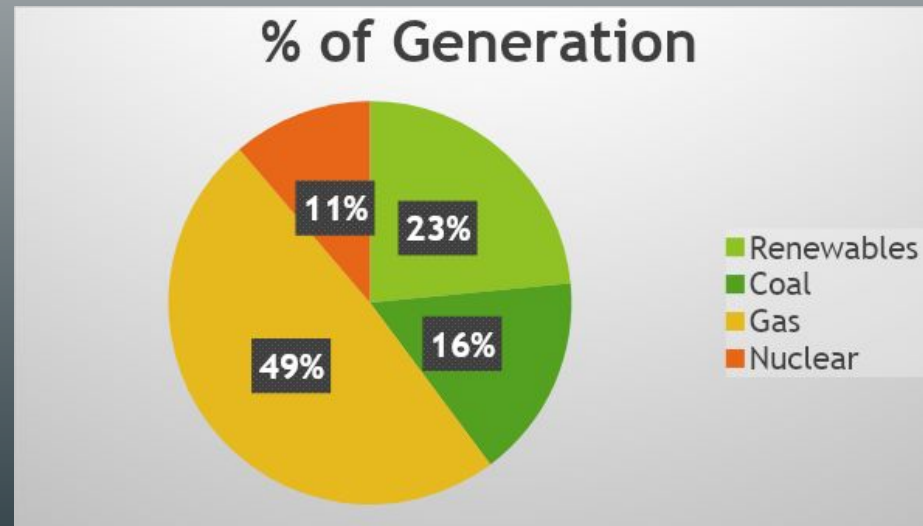
State Building Codes are Key to Making Texas an Efficient, Resilient Economic Engine

- ▶ Texas has more housing starts than any other state
- ▶ Dallas, Houston, Austin, San Antonio and the Valley are consistently among highest growth areas in the country
- ▶ Texas is the leading state in "Energy Star" homes and one of the leading states on buildings built to above-code standards, such as LEED
- ▶ Much of Texas's growth, however, occurs outside city limits where standards and enforcement are often lower.
- ▶ Energy and Building Codes provide the following:
 - ▶ - Life and safety provisions
 - ▶ - During current times of increased disasters, Building and Energy Codes add resiliency to building stock
 - ▶ - Can save consumers on expenditures as efficiency within codes help reduce in a home or commercial property
 - ▶ - Work on a three (3) - year cycle to update based on new technologies and materials

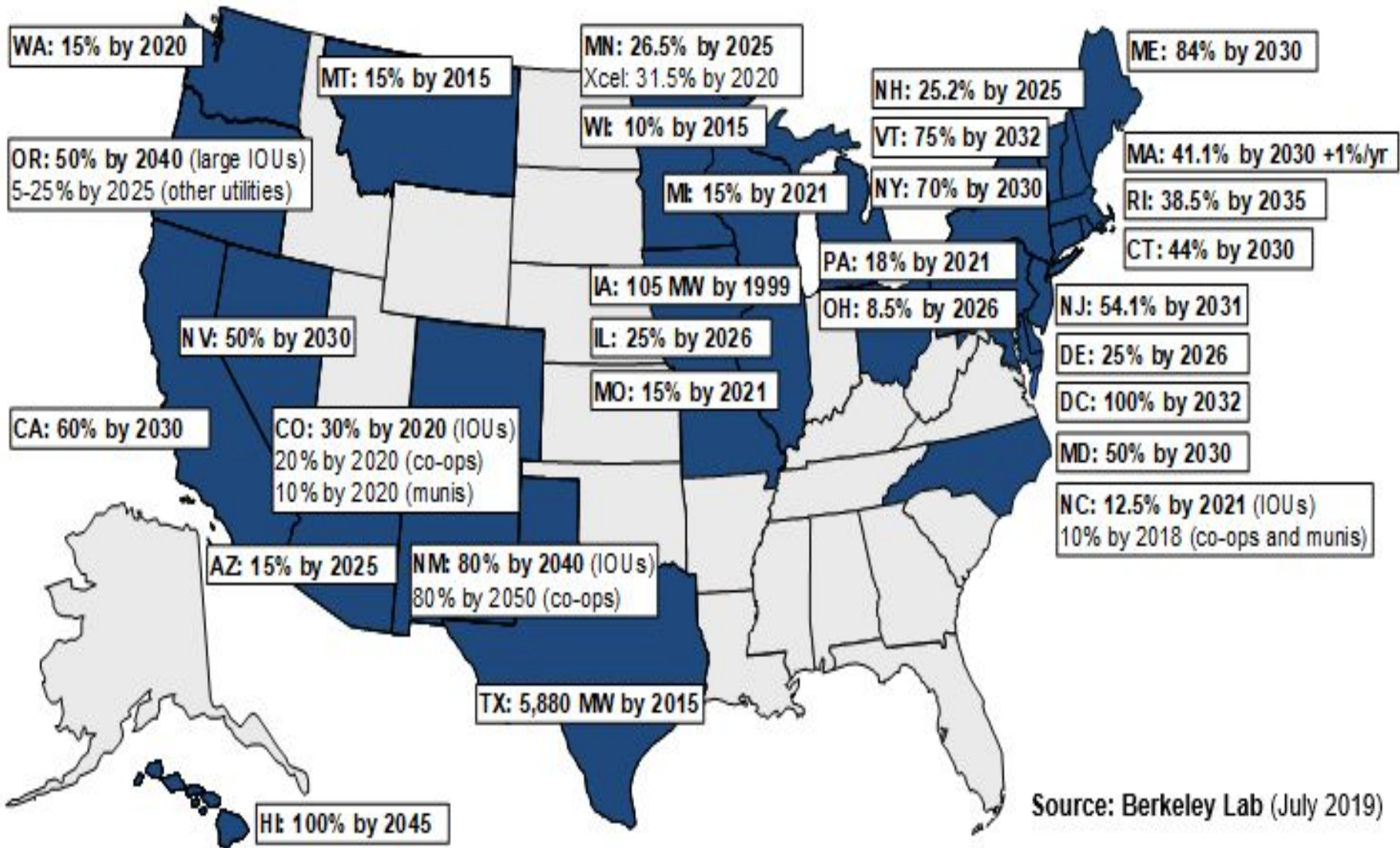
Texas: Huge Strides on Renewable Energy



- Texas is the leading state by far in wind energy
- We are 5th in solar but coming up strong
- We are beginning to see rise in use of energy storage, with about 10,000 MWs in the ERCOT queue
- In 2020 through September, renewables produced more energy than coal
- We must maintain and enhance this leadership position



Renewable Energy Goals: Time for an Upgrade?



Source: Berkeley Lab (July 2019)

“Renewable Portfolio Standards”

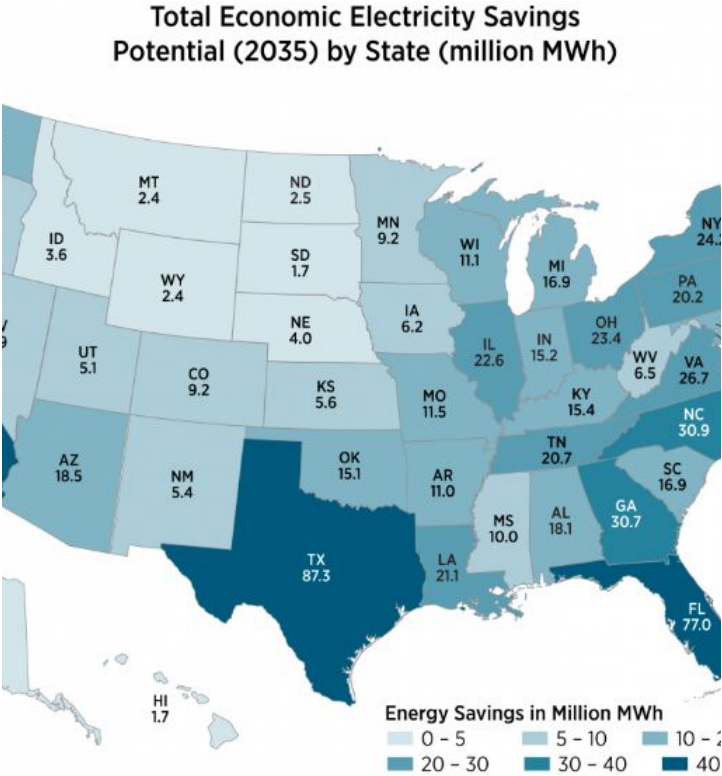
Texas expanded RPS in 2005 to increase renewables to a goal of 5,880 MWs by 2015 and a target of 10,000 MWs by 2025. As part of that we built a series of transmission lines known as CREZ (Competitive Energy Renewable Zones) We met the 2015 goal in 2008, and we met the 2025 goal 2013!

It’s 2021. Should we upgrade our RPS, include distributed renewable resources, and potentially storage?

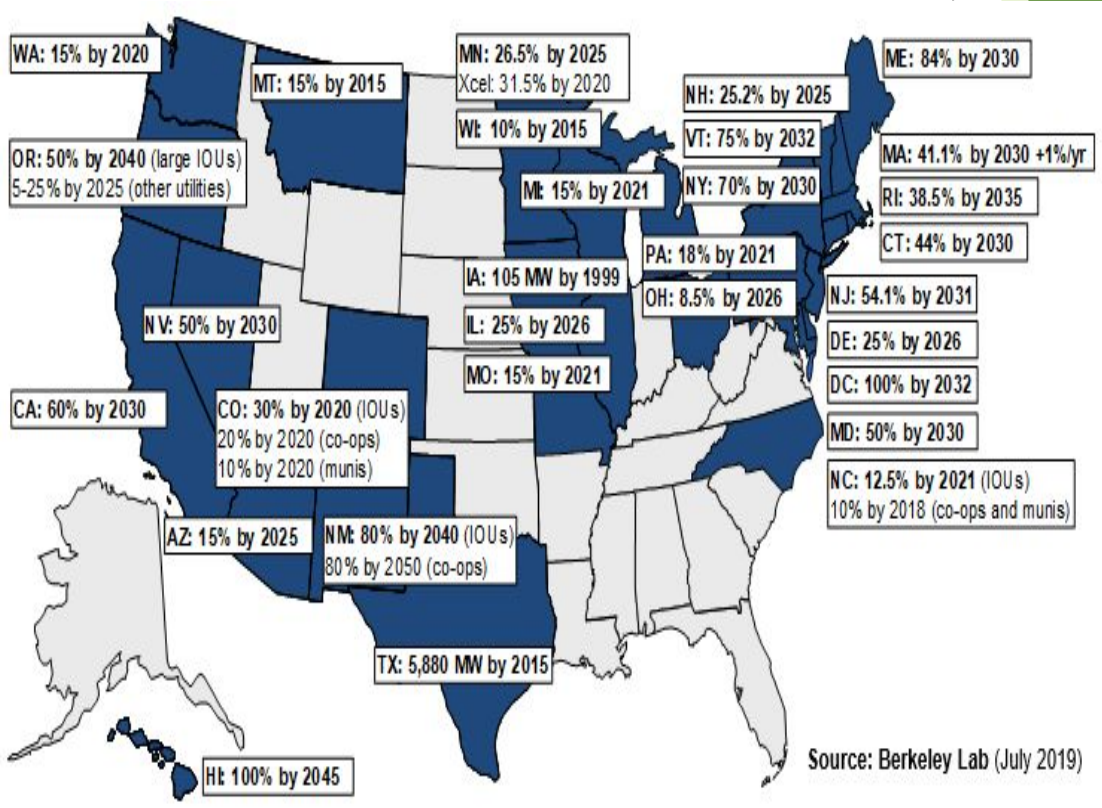
50% renewable by 2030 is achievable target, as is 75% carbon-free (includes storage, nuclear and other energy sources that don’t emit carbon)

Efficiency and Renewables

Efficiency Goal: 1% by 2025



Renewable Goal: 50% by 2030



Water Resources Management & Protection

- ▶ Restore the rights of recreational and environmental interests to contest proposed TCEQ water and wastewater permits and restore the right of the Texas Parks & Wildlife Department to seek or participate in those contested cases to protect fish, wildlife, and other state resources
- ▶ ● Enhance the role of the Parks & Wildlife Department in the operation and advancement of the Texas Water Trust, which holds water rights dedicated to maintenance of instream flows and freshwater inflows to bays and estuaries (“environmental flows”)
- ▶ ● Provide adequate funding and statutory support for science-based approaches to maintain sufficient environmental flows
- ▶ ● Oppose efforts to allow direct discharge of “produced waters” from oil and gas operations into streams but setting strong effluent limitations if such discharges are authorized
- ▶ ● Support efforts to accurately identify and reduce loss of water from pipeline leaks and other problems in water utility distribution systems
- ▶ ● Ensure that management of groundwater and surface water recognizes connections between those sources

Problem: Legislature and TCEQ are ENABLING discharge of “produced water” in our rivers and streams

Leg passed HB 2771, which orders TCEQ to seek delegation authority for wastewater discharge permits for produced oil and gas wastewater

EPA approved the application on January 15th, just days before the new Administration

EPA allows “beneficial” discharge of oil and gas wastewater west of the 98th Meridian with limited treatment

Sierra Club does not object to studying the issue further, but does object to providing incentives for direct discharge and believes Texas must study and develop treatment standards for produced wastewater

Solution

Don't provide tax breaks for treatment that would lead to direct discharge as has been proposed as a "supply" solution

Consider legislation that would establish state-based standards, and prohibit direct discharge of wastewater as is currently allowed by EPA under CFR 435

Environmental groups do favor onsite recycling of wastewater but do not favor discharge when adequate testing protocols, studies and control technologies for fracked produced wastewater don't exist

Parks and wildlife and land protections

- ▶ Adopt healthy soils legislation to encourage farmer and rancher soil sequestration and nutrient retention
- ▶ Parks and Wildlife Funding & Sunset, including protections on oil and gas development
- ▶ Statewide ban on gassing and use of chemicals on wildlife such as used in the Rattlesnake Roundup to better protect predators
- ▶ Pollinator protection study and restriction of neonicotinoids
- ▶ Create and allow the authorization of small impact fee on development to allow local governments to fund NGOs that help wildlife and fund local wildlife officer to better educate the public about how to protect wildlife
- ▶ Eminent domain reform: Adopt improved process to give landowners greater rights in the event of eminent domain request by private companies, such as oil and gas companies

Protection of local control and democracy

- ▶ Local control. We have seen the legislature go after local control over fracking,, sick leave, anti-discrimination, and most recently about decisions over police funding
- ▶ We are concerned by bills like those that would tell cities they can't adopt certain building codes (HB 884, HB 1282, HB 1501) or prevent cities from spending money to lobby
- ▶ We support improving access to voter registration and voting
- ▶ First amendment rights must be protected, whether by those protesting pipelines, Black Lives Matter, or even allegations of voter fraud. We should not criminalize peaceful protests.
- ▶ Role of Attorney General in lawsuits and insurrection should be investigated.

Let's continue to rock and roll!

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