

Re-Energizing Texas: The State Legislature's Upcoming Priorities for the Energy Sector

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With a rich history in oil and gas and a pioneering mentality towards the advancement of new technologies for the industry, Texas has long been regarded as a national and global figure in energy. Yet to maintain such a great title also means the state has had to reevaluate what its policies will be for both production and consumption. A disastrous slew of grid failures and an influx of new businesses requiring large amounts of electricity have left the state with serious holes that are top legislative priorities for the current session, which runs from January 14, 2025, to June 2, 2025. Equally important, a new national energy strategy ushered in by a changing administration in Washington, D.C. has also pulled the state in a direction to regulate, and some may say limit, the impact of renewable energy generation. With this backdrop in mind, market participants should expect the state legislature to focus on the following issues.

Refueling the Texas Energy Fund

In 2023, Texas voters approved Proposition 7 to create the Texas Energy Fund (TEF), a state program administered by the Public Utilities Commission of Texas (PUCT).¹ The TEF is set to provide \$5 billion of low-interest loans to private companies in an effort to promote the construction of natural gas power generation and other grid improvements to meet the almost 150 GW of power needed in the state by 2030, which is over 75% of current generating capacity of 85 GW. Much of this demand, sharply higher than the previous estimate of 110 GW, comes on the heels of new and unanticipated demand on the ERCOT grid from data centers and crypto-mining growth.² A 2024 application process attracted over 72 eager applicants looking to supply an additional 38 GW to the grid and further filtered down to 17 gas-fired power generation projects advancing to a due diligence phase representing over \$5.4 billion in loans.³ Though no bills have been put in front of the legislature, nor has any proposal been advanced to go back to the voters with another measure, Governor Abbott and Lieutenant Governor Patrick issued a joint statement calling to expand the Texas Energy Fund to \$10 billion in an effort to tap into the popularity of the program.

Orphaned Wells in Danger

In a letter to the Lieutenant Governor and State House Speaker late last year, a Texas Railroad Commissioner made an urgent plea saying that the Texas Railroad Commission's (RRC) requested \$226 million budget is inadequate to tackle environmental concerns from leaking oil

¹ <https://www.haynesboone.com/news/alerts/voters-approve-the-texas-energy-fund>

² <https://www.forbes.com/sites/davidblackmon/2024/06/13/ercot-ceo-stuns-texas-officials-with-new-estimate-for-power-needs/>

³ <https://www.utilitydive.com/news/texas-regulators-select-17-gas-fired-projects-10-gw-TEF-loans/725740/>

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wells, with a particular focus on orphaned wells.⁴ As their name suggests, orphaned wells are those which have been inactive for at least one-year and the most recent operator of record is either insolvent or cannot be determined to plug and abandon the well. This break in the chain of ownership/operatorship leaves these wells to be a liability for the RRC instead, who is left to ensure that orphaned wells do not cause further damage to water reservoirs or surface estates. In the letter, agency director Danny Sorrell requested an additional \$100 million of emergency funds to tackle the crisis. The RRC follows a Well Plugging Priority System to determine which orphaned wells are most at risk or already in danger, with Priority 1 wells being classified as those already leaking wells with high environmental, safety and economic risks.⁵ Because of this prioritization system, the RRC immediately responds to any Priority 1 well, regardless of costs and remaining budget, essentially dipping into funds allocated for other RRC activities, including the plugging of other priority wells. In doing so, the agency director argues that the RRC cannot focus on other priority wells, which makes them an emergency problem in the future and thus creating an unsustainable cycle for the RRC. In the year preceding Mr. Sorrell's letter, eight wells leaked and burst, with some costing almost \$3 million to plug and clean up. Though state officials haven't unveiled any legislation to increase the RRC budget per Mr. Sorrell's request, the ending of federally approved funds to support Texas' orphan well program has led both industry leaders and environmental protection groups to support the funding request.

Methane (De)regulation

The Texas Commission on Environmental Quality (**TCEQ**) is in the middle of reviewing comments related to regulations to establish new state methane emissions standards in line with federal EPA regulations promulgated in 2024.⁶ However, a change in presidential administrations in Washington, D.C. has led many, including Commissioner Wayne Christian of the RRC to call on the TCEQ to go pencils down on establishing regulations until new mandates, or an elimination of mandates, come down from the EPA.⁷ While the industry has already done a good job of regulating methane emissions, showing a 26% drop in 2023 in the Permian Basin and many operators already on track to end routine flaring ahead of schedule, some wonder why such a request to the TCEQ is even being made. State lawmakers do not shy away from attempting to limit regulations of any kind on the oil and gas industry. In 2023, lawmakers passed House Bill 33, a watered down version of the initial draft, which mandated that state agencies not implement any federal regulations on the Texas oil and gas industry unless a state law equivalent exists.⁸ While the merits of the validity of such a law are not

⁴ <https://www.texastribune.org/2024/11/01/texas-railroad-commission-oil-well-blowouts-emergency-funding/>

⁵ <https://www.rrc.texas.gov/media/3hjhrj/well-plugging-prioritization.pdf>

⁶ <https://www.tceq.texas.gov/permitting/air/rules/2024-000oc-rulemaking-oilgas-stakeholder#background>

⁷ https://www.rrc.texas.gov/news/011425-christian_callson_tceq_bidenmethanerule_jan_2025/

⁸ Tex. Nat. Res. Code Ann. § 82.0102

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evaluated here, the industry will closely follow how the TCEQ reacts, if at all, to requests from the RRC and others, or if the regulations from Washington, D.C. hold and are implemented in the state as planned.

Cloudy Days for Renewable Energy

Although Texas leads the country in renewable energy generation,⁹ state legislators have introduced a list of bills that would regulate, and potentially restrict, the growth that industry has seen.

- House Bill 553 – Proposed to protect the “wildlife, water, and land of [Texas] against the impacts of renewable generation facilities,” the bill seeks to require wind and solar developers conduct an environmental impact study, pay an annual environmental impact fee, contribute to a renewable energy cleanup fund, and hold public hearing all before a project is even permitted.¹⁰
- House Bill 1343 – Creating spacing requirements that would have battery storage facilities be spaced out from each other to mitigate the risk of fire spread. While the specifics of the spacing requirement are still not clear, the industry is open to working on safety measures.¹¹
- Senate Bill 388 – Requiring that 50% of the generating capacity on the ERCOT grid come from “dispatchable energy,” a term used to describe human generated sources of energy.¹²
- Senate Bill 714 – Moves to eliminate differences in electricity prices due to federal tax credits afforded to renewable energy generation by allowing the PUCT and ERCOT to charge grid costs back to facilities who are eligible for 26 U.S.C §45 tax credits.¹³

While these bills, if passed, would have varying impacts on the renewable energy industry in the state, the overall impact would be to increase regulations on a source of electricity at a time where the state is actively looking to ramp up its overall electricity supply.

⁹ <https://www.reuters.com/business/energy/texas-tops-us-states-renewable-energy-battery-capacity-maguire-2025-01-09/>

¹⁰ <https://capitol.texas.gov/tlodocs/89R/billtext/pdf/HB00553I.pdf>

¹¹ <https://capitol.texas.gov/tlodocs/89R/billtext/pdf/HB01343I.pdf>

¹² <https://capitol.texas.gov/tlodocs/89R/billtext/pdf/SB00388I.pdf>

¹³ <https://capitol.texas.gov/tlodocs/89R/billtext/pdf/SB00714I.pdf>