



Powering the Texas Electricity Market into the Future

Bill Analysis — SB 736/HB 1685

by J.D. Rimann
Research Analyst

Key Points

- The GLO was never intended to permanently remain in the electricity market, and with the electricity market more competitive and stable than ever, now is the time for them to withdraw.
- The 2 percent gross receipt tax exemption the GLO can offer its customers has created a competitive imbalance in the marketplace. SB 736 and HB 1685 would result in an even more competitive and efficient electricity market in Texas.
- By doing away with the aforementioned tax break, SB 736 and HB 1685 will result in an increase to GR, as reflected in its fiscal note.

SB 736 and HB 1685 will foster competition in the Texas statewide electricity market by eliminating the authority of the General Land Office (GLO) to sell electricity to certain governmental entities. This will decrease government interference and increase efficiency in the Texas electricity market.

Starting with the passage of SB 7 during the 76th Texas Legislature in 1999, Texas has paced the nation in allowing competition in the electricity market. Since then Texas has experienced ever increasing efficiency within that market, which today is the strongest, most efficient, and most competitive in the world. Competition is one of the key components of any free market economy; healthy competition fosters innovation while allowing consumers to have the greatest range of affordable products and services.

When the Legislature introduced competition into the electricity market, one of the stipulations in SB 7 was that the GLO would be authorized to sell electricity to “public retail customers that are military installations of the United States, agencies of this state, institutions of higher education, or public school districts. The remainder of the power . . . may be sold to public retail customers that are political subdivisions of [Texas] or to a United States Department of Veterans Affairs facility” ([Tex. Util. Code §35.102\(b\)](#)). This was done so that during the transition to a competitive market state entities would be able to retain a lower-cost electricity option to insulate them from any volatile market forces ([SB 736](#)).

However, as the Texas electricity market has taken off in the years since SB 7 passed and become increasingly sophisticated, the GLO has become a quasi-commercial retail electricity provider, competing against private companies for the business of the types of consumers listed within SB 7. In these bids the GLO has a powerful asset: the Comptroller’s office ruled in 2002 that “the GLO’s State Power Program is not subject to the Public Utility Commission assessment . . . additionally, the State Power Program is not a retail electric provider and is not subject to taxes imposed under Chapter 192 of the Tax Code” (Christian). These breaks amount to an approximate two percent gross receipts tax exemption for GLO customers.

The ability of the GLO to sell tax-exempt retail electricity has created a competitive imbalance in today’s electricity marketplace. SB 7 never intended to enable the state to compete directly with private companies, but today that is exactly what is happening ([SB 736](#)).

Since 1999, Texas has continued to lead the nation—indeed, to lead the world—in the efficiency and competitiveness of the electricity market as we have learned the benefits of reducing government intervention within the marketplace and fostering competition. Much like maintaining an energy-only market and eliminating the System Benefit Fund have done, revoking the ability of the GLO to sell retail electricity will continue the process of strengthening our overall electricity marketplace.

continued

SB 736 and HB 1685 are the latest steps in a series of steps taken in the right direction by the Texas Legislature over the last decade and a half, steps which have made and continue to make Texas' world-class energy market ever more efficient and competitive. This legislation embodies the spirit of the Texas Model and will help to ensure that Texas remains the world leader in energy well into the 21st Century.★

References

Christian, Adina. Letter from Tax Policy Division of Texas Comptroller's Office to General Land Office. September 16, 2002.

[SB 736 Bill Analysis](#). 2017. Senate Research Center. 85th Texas Legislature (R).

[Texas Utility Code §35.102\(b\)](#).

About the Author

J.D. Rimann joined the Texas Public Policy Foundation as a Research Analyst in January 2017. Originally from Round Rock, TX, J.D. completed his undergraduate work at the University of Southern Mississippi, where he majored in History, Political Science, and English. He volunteered in Sierra Leone, Togo, and Congo-Brazzaville with the Christian humanitarian organization Mercy Ships, served as a Texas Governor's Fellow in 2014, and interned in the office of U.S. Congressman John Carter prior to joining the Foundation.

About the Texas Public Policy Foundation

The Texas Public Policy Foundation is a 501(c)3 nonprofit, nonpartisan research institute. The Foundation's mission is to promote and defend liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach.

Funded by thousands of individuals, foundations, and corporations, the Foundation does not accept government funds or contributions to influence the outcomes of its research.

The public is demanding a different direction for their government, and the Texas Public Policy Foundation is providing the ideas that enable policymakers to chart that new course.

