



Senate Bill 819 (Kolkhorst)

A Threat to Property Rights, Grid Reliability and the "Texas Miracle"

Texas has long championed free enterprise and private property rights, fueling its dominance as an energy leader. However, **Senate Bill 819 (Kolkhorst)** represents an unprecedented departure from these values, **imposing excessive government regulations that will raise electricity costs, undermine grid reliability, and, most concerningly, strip private landowners of their rights**. Worse, the bill claims to promote the protection of wildlife, water, and land, even though **it does little, if anything, to improve conservation or environmental outcomes**.

This legislation **attempts to revive a previously rejected proposal from 2023**, subjecting only utility-scale solar and wind projects to **excessive, novel, and unnecessary bureaucratic red tape—requirements that no other power generation resource faces**. SB 819 is not about fairness, consumer protection, or responsible land stewardship. It is a **targeted attack on renewable energy**, designed to decrease competition and dismantle a growing sector of Texas' energy economy.

Undermining Grid Reliability and Raising Electricity Costs

Texas' **energy demand is projected to nearly double by 2030**, yet SB 819 creates unnecessary hurdles for low-impact power generation projects that are the fastest to build and interconnect while creating substantial economic benefits for Texans. By discriminating against solar and wind projects, **SB 819 threatens both the development of new projects and the ability of existing projects to repower and upgrade equipment for greater efficiency**, limiting access to the most affordable power generation resources, increasing Texans' electricity bills, and making rolling blackouts more likely.

Key facts:

- **ERCOT warns that Texas must act aggressively today to meet future demand**, yet SB 819 slows or halts the development of the lowest-cost, fastest to market power sources from the grid at a time when Texas needs every megawatt.
- One study estimates that **bills like SB 819 could raise power prices by as much as \$115 billion over 15 years**, harming Texas businesses, communities, and consumers.
- Since 2022, **renewable energy has saved Texas ratepayers nearly \$1 billion per month** in wholesale electricity costs, helping stabilize prices amid rising natural gas prices that are a key driver for electricity costs.

By making it harder to build low-cost, reliable power generation, **SB 819 will make Texas electricity more expensive and less dependable**—placing unnecessary burdens on families and businesses.

Attacking Private Property Rights

Unlike other energy infrastructure projects that can utilize eminent domain, utility-scale solar and wind projects are built solely through voluntary landowner agreements. **SB 819 strips private property owners of their ability to make independent decisions** about the highest and best use of their land by:

- Requiring excessive public notification, forcing landowners to notify elected officials **in communities up to 25 miles away**—a **precedent unheard of** in Texas law and far exceeding notification standards required for generation, transmission, or other energy resources.
- **Empowering bureaucratic state agencies to dictate land use decisions, stripping control from those who know their land best** and who work with wind and solar companies to craft compatible land use solutions.

This bill sets **a dangerous precedent that could extend beyond renewable energy**, opening the door to future restrictions on agriculture, oil and gas, and other private land uses. Texans have long rejected government interference in private property rights. **SB 819's "government knows best" approach turns that principle on its head.**

Expanding Bureaucracy Based on False Claims

SB 819 contradicts Texas' commitment to limited government by **granting unelected bureaucrats new authority to interfere with private property and private contracts** with an expansive and arbitrary regulatory regime. This proposal expands the regulatory powers of the PUCT into new areas for which they lack both the staff and the expertise. The bill attempts to justify this overreach with claims of environmental and land stewardship, even though:

- **Utility-scale solar and wind projects are already subject to rigorous state and federal environmental standards and laws**, including oversight by the U.S. Fish & Wildlife Service, the Texas Commission on Environmental Quality, and other agencies.
- **No other form of power generation is subjected to these proposed application and notice requirements**—not even those that emit pollutants, use large amounts of water, or permanently alter land use without statutory decommissioning or land restoration requirements like those that already exist for wind and solar.

In a 2024 study on renewable energy directed by the Legislature (SB 1290), the Texas Commission on Environmental Quality (TCEQ) concluded that **"the State of Texas has an established regulatory framework to manage the environmental impacts of solar, wind, and energy storage projects on the environment."**

Conclusion: Lawmakers Should Reject SB 819—Again

SB 819 is **not about fairness, grid reliability, or environmental protection**. It is an effort to hinder an industry that strengthens Texas' economy, supports grid reliability, has demonstrated environmental benefits, and saves consumers money. Before moving forward, consider:

- This bill **selectively targets an industry** that has saved Texans billions in energy costs and **supplied over one-third of the power** in ERCOT in 2024.
- SB 819 **tramples private property rights**, a cornerstone of Texas values, setting a precedent that could be used to restrict other land uses in the future.
- The bill **contradicts the pro-business, free-market values that have made Texas an energy powerhouse**—instead handing unprecedented authority to bureaucrats to dictate energy policy.
- Rather than improving environmental outcomes, SB 819 expands government regulation and adds new costs to the state budget with **unnecessary red tape while doing nothing to better protect Texas land, water, or wildlife**.

A similar bill was rightly rejected last session. Texas lawmakers should do the same again to protect private property rights, keep energy costs low, and ensure a diverse, reliable grid for the future.

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Section-by-Section Analysis of Senate Engrossed Version

SEC. 35.201 – DEFINITIONS & APPLICABILITY

Establishes the scope of the bill, specifically targeting utility-scale solar and wind projects over 10 MW.

- **Why this is bad:** Unfairly **singles out renewable power generation** for new regulations and oversight while excluding other power generation or energy resources, **discouraging essential investments** to meet Texas' growing energy demand.

SEC. 35.202 – LEGISLATIVE POLICY AND PURPOSE

Declares the state's interest in balancing private property rights, increasing electric generation, and mitigating renewable energy impacts.

- **Misleading:** High-minded language seeks to disguise **placing unnecessary discriminatory regulation** of renewable energy projects without applying the same scrutiny to higher-impact power generation or energy production projects, **penalizing one form of energy development and private property owners** who seek to produce energy on their land and earn multi-generational income for their families.

SEC. 35.203 – APPLICATION FOR DETERMINATION

Requires solar and wind developers to file an “application for a determination of public interest” before interconnecting projects of 10 megawatts or more. Applications are to include environmental analyses, fire-mitigation plans, national-security attestations, and an application fee.

- **Why this is bad:** No power generation resource in Texas today faces this hurdle. This will add delays, increase costs and deter investment, threatening grid reliability and economic growth.
- Unlike the filed version, the Senate Engrossed version omits a clear exemption for existing facilities “interconnected” prior to September 1, 2025. This creates ambiguity about the bill’s applicability and raises concerns about potential retroactive requirements for operational power generators.
- The lack of clear and objective standards for review of projects creates opportunities for political interference, raising significant concerns about regulatory fairness and consistency.

This section will deter investments seeking to add additional capacity to existing facilities to increase efficiency, boost systemwide reliability, and save consumers money. This could result in existing asset retirement, something the Texas power grid cannot afford.

SEC. 35.204 – SITE PLAN

Imposes restrictive and unscientific setback requirements: solar projects must be at least 100 feet from property lines and 200 feet from habitable structures, while wind projects face an extreme 1,000-foot setback from property lines.

- **Why this is bad:** Arbitrary setbacks limit viable land use and infringe on private property rights for a land use occurring entirely within the bounds of private property. Landowners should have the right to lease their land for energy production without unnecessary state interference.
- **Industry already follows best practices** driven by landowner desires and safety precautions.

The setbacks outlined in this bill limit the available land for solar projects, including those co-located with dispatchable energy storage, and the wind power setbacks will effectively end wind development in Texas.

SEC. 35.205 – PUBLIC NOTICE

Requires that applicants provide notice to county judges in counties within a 25-mile radius before a permit application is considered. Additionally, applicants must publish two consecutive newspaper notices in each affected county describing the facility’s type and location.

- **Why this is bad:** Encourages obstructionist tactics and significantly degrades private property rights of landowners who have reached agreements for the legal use of their property to produce energy.

SEC. 35.206 – DECISION ON APPLICATION

Compels the Commission to act within 180 days after an application is complete. If the Commission takes no action by the 181st day, an application is automatically approved. The statute allows an applicant to request one 30-day extension to amend an application.

- **Why this is bad:** The undefined “*harm-versus-benefit*” test **gives current or future Commissioners broad discretion to block energy projects** for political or parochial reasons, undermining regulatory predictability.

SEC. 35.207 – POWER TO REGULATE AND SUPERVISE

Subjects competitive assets built with private capital to audits, investigations, site inspections and other intrusive powers currently applied only to regulated transmission and distribution utilities with a regulated rate of return.

- **Why this is bad:** These intrusive provisions into private businesses activities will frustrate project development and **suppress the appetite for investors** who currently deploy capital in Texas.