

A Retroactive Mandate That Punishes Consumers & Undermines Reliability

HB 3356 (Patterson) retroactively applies ERCOT's statutory firming requirement to all generation facilities operating for at least one year—unraveling the carefully negotiated compromise from 2023. **HB 1500 (Holland/Schwertner, 2023) made clear: new rules apply to new generation only.** HB 3356 undermines this policy and pulls the rug out from investors who expected regulatory certainty. Rather than improving reliability, it will actually undermine reliability and add unnecessary costs to a market that is already delivering reliable power at low cost.

House Bill 3356

BREAKS THE DEAL

HB 1500 set forward-looking firming rules for new generation of all types. This bill undoes that—changing the rules midstream for projects built and financed under current law with locked in financial agreements and operational costs.

As Rep. Davis noted during the hearing, **retroactive mandates are highly irregular in Texas, where the Constitution offers even stronger protections than the U.S. Constitution against impairing existing contracts.** Passage of this bill invites legal challenges and substantially erodes trust in Texas' business environment.

PUNISHES CONSUMERS

Texans will foot the bill. Estimates show that **firming mandates could raise wholesale solar costs alone by up to \$1.6 billion annually**—costs passed to consumers without improving reliability. Imposing similar rules retroactively on solar, wind, or aging thermal generators would drive prices even higher or force them offline.

As ERCOT CEO Pablo Vegas said in 2023, **punitive policies like this are a “tax” on generation.**

THREATENS RELIABILITY

This bill would reduce reliability, not improve it.

A broad range of stakeholders warned that **sudden, burdensome costs on existing resources will deter new investment and push current generation offline**—just as ERCOT warns demand could double in coming years.

Despite claims to the contrary, volatility in ERCOT has decreased, largely due to solar and battery growth. A 2024 PUCT analysis shows that renewables have not increased the cost or volume of ancillary services. As the agency notes, grid risk is always driven by a number of factors such as load forecast errors or underperforming dispatchable resources—not just renewables. **There were ZERO conservation calls from ERCOT in 2024—the grid is more reliable and reserve margins are increasing.**

UNDERMINES THE MARKET

This bill undermines regulatory certainty and signals to investors that Texas may move the goalposts at any time. Meanwhile, market signals are already driving investment in fast-responding, flexible resources. **Over 30% of battery projects in ERCOT's queue are co-located with other generation—demonstrating the market is adapting without burdensome and costly mandates.**

VOTE NO on HB 3356!