

CHAIR NATURAL RESOURCES
CHAIR BORDER SECURITY

The Senate of The State of Texas



BRIAN BIRDWELL
May 8, 2025

NOMINATIONS
STATE AFFAIRS
WATER, AGRICULTURE,
AND RURAL AFFAIRS

The Honorable Ken Paxton
Texas Attorney General
ATTN: Opinion Committee
PO Box 12458
Austin, TX 78711

RE: Request for legal opinion regarding the legality of the City of Austin's consideration of 2024 International Energy Conservation Code in regard to Texas Utilities Code 181.903.

Dear General Paxton:

Pursuant to Texas Government Code 402.042, I respectfully request an Attorney General Opinion to the following question:

Does the City of Austin's proposed energy code conflict with Sec. 181.903 of the Texas Utilities Code?

Synopsis:

In 2021, the 87th Texas Legislature passed House Bill 17 to preempt local measures restricting utility service based on the type or source of energy. The intent of House Bill 17 was to preserve customer choice and allow Texans to decide how to meet their own energy needs. The bill was drafted in response to a growing number of cities across Texas that sought to restrict or outright ban natural gas hookups in new buildings and construction. Texas Utilities Code 181.903 subsection (b) explicitly states:

"No regulatory authority, planning authority, or political subdivision of this state may adopt or enforce [a]...code, order, policy, or other measure that has the purpose, intent, or effect of directly or indirectly banning, limiting, restricting, discriminating against, or prohibiting the connection or reconnection of a utility service or the construction, maintenance, or installation of residential, commercial, or other public or private



infrastructure for a utility service based on the type or source of energy to be delivered to the end-use customer.”¹

Despite the passage and adoption of this law, the City of Austin’s intent to consider codes that would both directly and indirectly discriminate against end-use customers’ use of natural gas is in clear conflict with state statute.

On April 10, 2025 the City of Austin formally adopted the 2024 International Energy Conservation Code (IECC). Section 8.4.5 of the 2024 IECC includes “electric-ready” language that is intended to prepare new commercial buildings which seek to use natural gas appliances for use of electrical appliances in the future. This portion of the code mandates such buildings for electrification if and when the use of hydrocarbons are no longer deemed permissible. This will severely affect commercial customers by requiring them to upgrade their electrical panels to support the additional required electrical infrastructure that is to be placed next to specific natural gas appliances. The requirements of section 8.4.5 require builders to create additional electrical infrastructure for hypothetical future electric equipment and clearly discriminate against the use of natural gas service based solely on the type and source of energy.

Thank you for your attention to this matter and for your service to Texas.

Sincerely,



Senator Brian Birdwell
Chair, Senate Natural Resources and Economic Development Committee
Chair, Senate Border Security Committee

¹ UTILITIES CODE CHAPTER 181. MISCELLANEOUS POWERS AND DUTIES OF UTILITIES (texas.gov)