

## **BILL ANALYSIS**

C.S.H.B. 1520  
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Energy Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The recent winter storm in Texas resulted in a historic demand for energy. Due to factors beyond their control, gas utilities incurred extraordinary costs in procuring the necessary supply of gas to maintain service to their customers. The cost of gas is not controlled by gas utilities but instead is set by the market and passed through to the customer without markup. Considering the extraordinary costs incurred in the recent winter storm, customers could see a dramatic increase in their monthly bill without the securitization of those costs.

C.S.H.B. 1520 seeks to minimize the cost that customers might experience from those extraordinary costs, as well as from future extraordinary costs from potential catastrophic events such as natural and man-made disasters or system failures, by providing securitization financing to enable gas utilities to recover these costs. This financing mechanism will provide rate relief to customers by extending the time frame over which the extraordinary costs are recovered and will support the financial strength and stability of gas utility companies.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the secretary of state in SECTION 5 of this bill.

### **ANALYSIS**

C.S.H.B. 1520 amends the Utilities Code to set out provisions relating to customer rate relief bonds under the rates and services provisions of the Gas Utility Regulatory Act. The bill sets out the purposes of these bond provisions, which include the provision of securitization financing for gas utilities to recover applicable extraordinary costs incurred from a catastrophic event, and defines applicable terms. The bill requires the Railroad Commission of Texas (RRC) to ensure the following:

- that securitization provides tangible and quantifiable benefits to customers, greater than would have been achieved absent the issuance of customer rate relief bonds; and
- that the structuring and pricing of the customer rate relief bonds result in customer rate relief bond charges consistent with the terms of the applicable financing order and market conditions at the time of the pricing of the customer rate relief bonds.

C.S.H.B. 1520 establishes the following, with respect to extraordinary costs, and sets out additional related provisions:

- extraordinary costs are the reasonable and necessary costs placed in a regulatory asset and approved by the RRC in a regulatory asset determination under the bill's provisions;

- extraordinary costs include any costs of acquiring, retiring, and refunding a gas utility's existing debt and equity securities or credit facilities in connection with the issuance of customer rate relief bonds;
- extraordinary costs may include costs incurred to serve customers, including capital costs and other costs expensed, charged to self-insurance reserves, deferred, capitalized, or otherwise financed, that are incurred by a gas utility or on behalf of the gas utility for gas procurement, supply and system restoration and infrastructure, operations and administration in response to the following:
  - a tropical storm or hurricane, ice or snow storm, flood, or other weather-related event;
  - a natural or man-made disaster;
  - a system failure; or
  - another catastrophic event; and
- extraordinary costs may include the following:
  - natural gas procurement costs above normalized market pricing, mobilization, staging, construction, reconstruction, replacement, or repair of system facilities; and
  - reasonable estimates of the costs of natural gas procurement above normalized market pricing and any activity conducted or expected to be conducted by or on behalf of the gas utility in connection with the restoration of service or infrastructure associated with natural gas outages.

C.S.H.B. 1520 provides the following with respect to the RRC:

- the RRC may authorize the issuance of customer rate relief bonds if the bill's requirements are met;
- the RRC may assess to a gas utility costs associated with administering the bill's customer rate relief bonds provisions and requires the assessments to be recovered from rate-regulated customers as part of gas cost; and
- the RRC has exclusive, original jurisdiction to issue financing orders that authorize the creation of customer rate relief property, customer rate relief charges to service customer rate relief bonds, and financing costs and requires customer rate relief charges, if authorized by the RRC through a financing order in its sole discretion, to be imposed pursuant to customer rate relief property and not by a gas utility.

The bill establishes that, except as otherwise provided, its provisions relating to customer rate relief bonds do not limit or impair a regulatory authority's plenary jurisdiction over the rates, charges, and services rendered by gas utilities in Texas under specified statutory provisions.

C.S.H.B. 1520 requires the RRC, on application of a gas utility to recover a regulatory asset, to determine the regulatory asset amount to be recovered by the gas utility. The bill requires a gas utility desiring to participate in the customer rate relief bond process under a financing order to file an application with the RRC by a certain deadline after the date of the conclusion of the event for which regulatory asset recovery is requested. The bill provides an exception to this deadline with regard to the February 2021 winter storm and sets out related provisions, including provisions relating to a regulatory asset determination.

C.S.H.B. 1520, if the RRC determines that customer rate relief bond financing for extraordinary costs is the most cost-effective method of funding regulatory asset reimbursements to be made to gas utilities, authorizes the RRC, after the final resolution of all applications, to request the Texas Public Finance Authority (TPFA) to issue customer rate relief bonds on the behalf of the RRC. The bill requires the RRC, before making the request, to issue a financing order and sets out related provisions, including requirements for the financing order. The bill, among other provisions, requires TPFA, consistent with the bill's provisions relating to customer rate relief bonds and the terms of the financing order, to do the following:

- issue customer rate relief bonds at the request of the RRC, in accordance with specified provisions; and

- determine the methods of sale, types of bonds, bond forms, maximum interest rates, and other terms of the customer rate relief bonds that in TPFA judgment best achieve the economic goals of the financing order and effect the financings at the lowest practicable cost.

C.S.H.B. 1520 authorizes either TPFA to deposit proceeds of customer rate relief bonds issued by or on behalf of TPFA with a trustee selected by TPFA or the proceeds to be held by the comptroller of public accounts in a dedicated trust fund outside the state treasury in the comptroller's custody. The bill requires bond proceeds, including investment income, to be held in trust for the exclusive benefit of the RRC policy of reimbursing gas utility costs. The bill requires TPFA to use the proceeds as follows:

- to reimburse each gas utility the regulatory asset amount determined to be reasonable for that gas utility in the financing order;
- to pay the financing costs of issuing the bonds; and
- to provide bond reserves, as applicable.

If there are no outstanding bonds or bond interest to be paid, the remaining proceeds must be used to provide credits to gas utility customers.

C.S.H.B. 1520 establishes that customer rate relief bonds and any related ancillary agreements or credit agreements are not a debt or pledge of the faith and credit of the state or a state agency or political subdivision of the state. A customer rate relief bond, ancillary agreement, or credit agreement is payable solely from customer rate relief charges as provided by the bill. The bill sets out related provisions.

C.S.H.B. 1520, with regard to customer rate relief bonds, sets out provisions relating to the following:

- property rights;
- property interest that is not subject to setoff, counterclaim, surcharge, or defense;
- customer rate relief charges being nonbypassable;
- a formulaic true-up charge adjustment mechanism required to be included in a financing order;
- liens and security interests in customer rate relief property, including certain rules adopted by the secretary of state governing applicable notice requirements;
- repayment of customer rate relief bonds;
- applicable tax exemptions;
- a prohibition against an assignee or financing party from being considered to be a public utility or person providing natural gas service solely by virtue of applicable transactions;
- exemptions from personal liability for specified persons; and
- severability of provisions.

C.S.H.B. 1520 amends the Government Code to add as a purpose of the Texas Public Finance Authority Act the provision of a method of financing for customer rate relief bonds authorized by the RRC. The bill authorizes TPFA, either directly or by means of a trust established by TPFA, to issue obligations or other evidences of indebtedness for financing customer rate relief bonds approved under the bill's Utilities Code provisions and sets out related provisions.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1520 differs from the original in minor or nonsubstantive ways by conforming to certain bill drafting conventions.