

## **BILL ANALYSIS**

C.S.S.B. 2  
By: Hancock  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

February's winter storm exposed a range of weaknesses in the governance, administration, and infrastructure of the Texas electric grid. Members of the Texas Legislature and Texans statewide have expressed a desire for increased oversight of the selection of members of the ERCOT governing body and of that governing body's actions. C.S.S.B. 2 seeks to provide for that increased oversight and to make additional changes with respect to the membership of the ERCOT governing body, including by changing term lengths and requiring that all members be Texas residents.

### **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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 2 amends the Utilities Code to require the commissioner designated as the presiding officer of the Public Utility Commission of Texas (PUC) and the chief executive of the Office of Public Utility Counsel to be Texas residents.

C.S.S.B. 2 prohibits rules adopted by, or enforcement actions taken by, an independent organization, such as ERCOT, that is certified by the PUC to perform certain essential market functions for a power region from taking effect before receiving approval from the PUC. The bill specifies that the rules are adopted and the enforcement actions are taken under delegated authority from the PUC. With respect to the governing body of such an organization, the bill does the following:

- increases from one year to two years the term of office of the six members who are market participants, the one member representing industrial consumer interests, and the one member representing large commercial consumer interests;
- prohibits the one market participant member who is a representative of retail electric providers from being affiliated with an independent generator;
- decreases from three years to two years the term of office of the five members unaffiliated with any market segment;
- requires that the selection of those five unaffiliated members be approved both by the PUC and by a majority of the governor, the lieutenant governor, and the speaker of the house of representatives;
- regarding the organization's bylaws:

- requires the bylaws to require that every member be a Texas resident and prohibit a legislator from serving as a member;
- removes the requirement that the bylaws require the use of a professional search firm to identify candidates for membership of unaffiliated members;
- authorizes the bylaws to require the use of such a firm to identify candidates for election or selection to represent a market segment or to represent applicable consumer interests; and
- requires the bylaws to include the existing requirement for the presiding officer to be one of the five unaffiliated members and to require that the vice presiding officer also be one of those unaffiliated members;
- makes a person required to register as a lobbyist under state law ineligible for selection as the organization's chief executive officer (CEO) or as one of the five unaffiliated members;
- requires members, in making selections for the CEO or those unaffiliated positions, to give preference to a person who has executive-level business experience representing a range of industries;
- requires that the members serve staggered terms, with terms of the members who are market participants and the member representing industrial consumer interests expiring in an even-numbered year and terms of the member representing large commercial consumer interests and the unaffiliated members expiring in an odd-numbered year;
- regarding the replacement of a member whose term has expired, requires the appropriate authority to appoint or arrange for the election of a replacement in the same manner as the original appointment or election as soon as practicable after the term's expiration; and
- regarding the filling of a vacancy, requires the appropriate authority to appoint or arrange for the election of a successor in the same manner as the original appointment or election to serve for the remainder of the unexpired term.

In order for such an organization to maintain its certification, the organization's governing body must establish and implement a formal process for adopting new protocols or revisions to existing protocols. The process must require that new or revised protocols may not take effect until the PUC approves a market impact statement describing the new or revised protocols. The bill requires a certified organization to modify itself to comply with applicable provisions of the bill not later than September 1, 2021, and authorizes the PUC to decertify a noncompliant organization after that date.

### **EFFECTIVE DATE**

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

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 2 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute omits provisions from the engrossed that did the following:

- required that the CEO of a certified independent organization and the five unaffiliated members of such an organization's governing body be appointed by the governor with the advice and consent of the senate;
- authorized the consideration of a person recommended by the legislature for appointment as the CEO or an unaffiliated member of the governing body;
- required that the member of the governing body representing independent generators be elected by a majority vote of the members of this market segment who each own and control five percent or more of the installed generation capacity located in the power region; and

- required that the governing body's presiding officer and vice presiding officer be selected by the governor with the advice and consent of the senate.

The substitute includes a requirement not in the engrossed that the selection of the five unaffiliated members by the other members of the governing body be approved by the PUC and by a majority of the governor, the lieutenant governor, and the speaker.