

SUBJECT: Changing ERCOT board composition, requiring Texas residency

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson

0 nays

1 absent — Smithee

WITNESSES: For — Cyrus Reed, Lone Star Chapter Sierra Club; (*Registered, but did not testify*: Kathy Green, AARP; Greg Macksood, Devon Energy; Luke Metzger, Environment Texas; Tom Oney, Lower Colorado River Authority (LCRA); Shera Eichler, Oncor Cities Steering Committee and Texas Coalition for Affordable Power; Danielle Delgadillo, South Texas Electric Cooperative (STEC); Mance Zachary, Vistra Corporation; Georgia Keysor; Tom Nobis)

Against — None

On — Katie Coleman, Texas Association of Manufacturers; (*Registered, but did not testify*: Thomas Gleeson, Public Utility Commission of Texas; Thomas Parkinson)

BACKGROUND: Utilities Code sec. 39.151 requires the Public Utility Commission (PUC) to certify one or more independent organizations to ensure:

- access to the transmission and distribution systems for all buyers and sellers of electricity on nondiscriminatory terms;
- the reliability and adequacy of the regional electrical network;
- that information relating to a customer's choice of retail electric provider is conveyed in a timely manner; and
- that electricity production and delivery are accurately accounted for among the generators and wholesale buyers and sellers in the

region.

In 1996, the Electric Reliability Council of Texas, also known as ERCOT and referred to here as the ERCOT organization, became the independent operator for the ERCOT power region.

Under Utilities Code sec. 39.151 (g), to maintain certification as an independent organization, the organization's governing body must be composed of:

- the PUC chairman as an ex officio nonvoting member;
- the public utility counsel as an ex officio voting member representing residential and small commercial consumer interests;
- the CEO of the independent organization (ERCOT organization) as an ex officio voting member;
- six market participants, with one each representing independent generators, investor-owned utilities, power marketers, retail electric providers, municipally owned utilities, and electric cooperatives;
- one representative of industrial consumer interests;
- one representative of large commercial consumer interests; and
- five members unaffiliated with any market segment and selected by the other members.

The presiding officer must be one of the unaffiliated members.

DIGEST:

CSHB 10 would change the composition of and set residency requirements for the governing body of the independent organization certified by the Public Utility Commission (PUC) to perform certain functions related to the electric grid and electricity market in the ERCOT power region (ERCOT organization).

Governing body membership. The bill would remove the requirement that the ERCOT organization's governing body include five members unaffiliated with any market segment and would add to the ERCOT organization's governing body:

- three members appointed by the governor, including at least one representing residential consumer interests;
- one member appointed by the lieutenant governor; and
- one member appointed by the House speaker.

The bill would specify that the governor designated the body's presiding officer.

The governor, lieutenant governor, and House speaker would have to appoint members to the governing body before September 1, 2021.

Residency requirements. The bill would require all members of the ERCOT organization's governing body to be Texas residents, including the ERCOT organization's CEO, the presiding officer of the PUC, and the public utility counsel.

To maintain certification as an independent organization, the ERCOT organization would have to ensure its CEO was a state resident by September 1, 2022, after which the PUC could decertify an independent organization whose governing body or CEO did not comply with residency requirements.

Terms. The governing body members added by the bill would serve staggered, two-year terms. If a member's term expired or a vacancy occurred, the appointing authority would have to appoint a replacement within 30 days.

Governing body members would not be entitled to compensation but would be entitled to reimbursement for travel and other necessary expenses as provided by the general appropriations act.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS CSHB 10 would take the necessary first steps to reform the governance of

SAY: the Electric Reliability Council of Texas (ERCOT organization) in the wake of Winter Storm Uri, which left millions of Texans without power in February. Many people voiced concerns about ERCOT organization board members living out of state during the storm and not experiencing the same hardships as Texas residents, as well as about the board's perceived lack of accountability to the Legislature and to residents.

CSHB 10 would create a system in which Texans could trust by balancing expertise with the needs of consumers, who were the most harmed during and after the winter storm. By requiring Texas residency of all ERCOT organization board members, the bill would ensure members had a personal stake in the Texas electricity market. As the energy capital of the world, Texas has many potential candidates to choose from who possess significant expertise in the state's unique electricity market. By not providing for compensation, the bill would ensure new members appointed under the bill did not accept the position based on salary but on the choice to dedicate valuable time to the duties and responsibilities associated with overseeing the reliability of the state's electric grid and electricity market. The bill also would double residential customer representation on the board, increasing from one to two the number of members representing their interests.

The bill also would ensure the ERCOT organization's board was more accountable to Texans by replacing the current five unaffiliated members with five members appointed by elected officials, who ultimately are accountable to voters. This appointment process also would instill more legislative oversight, as both the lieutenant governor and the House speaker would each select one member.

CRITICS
SAY: CSHB 10 could limit the participation of knowledgeable experts on the ERCOT organization's board. Members must understand technical protocols, write market rules, and design systems to implement policy from the Public Utility Commission and the Legislature. While it is already challenging to find individuals who meet certain qualifications, the bill could limit further the pool of potential candidates by requiring Texas residency and not providing compensation.

The bill should provide for some compensation for the new appointed members both to attract qualified candidates and to signal the weight of the responsibility associated with serving on the ERCOT organization's board. Previous unaffiliated board members were paid for their expertise, so some level of compensation should remain to make certain that those willing to serve dedicated their time, as now, more than ever, Texans will be counting on them.

OTHER
CRITICS
SAY:

To enhance oversight and grid reliability, CSHB 10 should address member qualifications to ensure that new members appointed under the bill were not selected for political reasons but for subject matter expertise. Including such qualifications also could help retain dissenting voices on the board, as the number of members appointed by elected officials would increase under the bill.