

BILL ANALYSIS

Senate Research Center
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H.B. 10
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Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In February of this year, Winter Storm Uri struck Texas and paralyzed the state's electric grid, leaving millions of Texans in the ERCOT power region without power for upwards of a week in frigid weather. During this time, many Texans were concerned to learn about the makeup of the ERCOT board and its lack of accountability to the legislature. Of particular concern was the fact that numerous members of that board, including its chair and vice-chair, did not reside in Texas. H.B. 10 seeks to address these concerns by reconfiguring the requirements for the governing body of ERCOT, or another independent organization certified to perform essential market functions for a power region, so as to require all members of the governing body to be Texas residents and to give the governor, lieutenant governor, and speaker of the house of representatives the authority to appoint certain members to the governing body.

H.B. 10 amends current law relating to the governance of the Public Utility Commission of Texas, the Office of Public Utility Counsel, and an independent organization certified to manage a power region.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.052(a), Utilities Code, to require the commissioner designated by the governor as the presiding officer of the Public Utility Commission of Texas (PUC) to be a resident of this state.

SECTION 2. Amends Section 13.022(a), Utilities Code, to require the chief executive of the Office of Public Utility Counsel to be a resident of this state.

SECTION 3. Amends Section 39.151, Utilities Code, by amending Subsections (g) and (g-1) and adding Subsections (g-2), (g-3), (g-4), and (g-5), as follows:

(g) Requires an independent organization's governing body to be composed of:

(1)-(6) makes no changes to these subdivisions;

(7) three members appointed by the governor, at least one of whom must represent residential consumer interests;

(8) one member appointed by the lieutenant governor; and

(9) one member appointed by the speaker of the house of representatives.

Deletes existing text of Subsection (g)(7) requiring an independent organization's governing body to include five members unaffiliated with any market segment and selected by the other members of the governing body to serve three-year terms. Deletes existing text requiring that the formal bylaws of the organization, for unaffiliated

members, prescribe professional qualifications for selection as a member, and requiring that the bylaws require the use of a professional search firm to identify candidates for membership of unaffiliated members.

(g-1) Requires the governor to designate the presiding officer of the independent organization's governing body, rather than requires the presiding officer of the governing body to be one of the members formerly described by Subsection (g)(7).

(g-2) Provides that members of the governing body of an independent organization certified under this section that are elected or appointed under Subsections (g)(7), (8), and (9) serve staggered terms of two years, with three members' terms expiring February 1 of each odd-numbered year and two members' terms expiring February 1 of each even-numbered year. Requires the appropriate appointing authority, not later than the 30th day after the date a member of the governing body's term expires, to appoint a replacement in the same manner as the original appointment. Requires the appropriate appointing authority, if a vacancy occurs on the governing body, to appoint a successor in the same manner as the original appointment to serve for the remainder of the unexpired term. Requires the appropriate appointing authority to appoint the successor not later than the 30th day after the date the vacancy occurs.

(g-3) Requires a person, to qualify as a member of the governing body under Subsection (g)(4), (5), (6) (relating to members representing certain market segments and interests), (7), (8), or (9), to be a resident of this state.

(g-4) Requires an organization's chief executive officer, to maintain certification as an independent organization under this section, to be a resident of this state.

(g-5) Provides that a member of the board is not entitled to compensation. Provides that board members are entitled to reimbursement for travel and other necessary expenses related to the activities of the council as provided by the General Appropriations Act.

SECTION 4. (a) Requires the governor, the lieutenant governor, and the speaker of the house of representatives, as soon as practicable after the effective date of this Act, to comply with Section 39.151, Utilities Code, as amended by this Act, by appointing members to the governing body of an independent organization certified under Section 39.151, Utilities Code, by the PUC before September 1, 2021. Requires the governor, to establish staggered terms, to designate three initial appointees to serve terms expiring February 1 of the next odd-numbered year and two initial appointees to serve terms expiring February 1 of the next even-numbered year.

(b) Requires an independent organization certified under Section 39.151, Utilities Code, by the PUC before September 1, 2021, to ensure that the chief executive officer of the organization is a resident of this state as soon as practicable, but not later than September 1, 2022.

(c) Authorizes the PUC, after September 1, 2022, to decertify an independent organization whose governing body or chief executive officer does not comply with Section 39.151, Utilities Code, as amended by this Act.

SECTION 5. Effective date: upon passage or September 1, 2021.