

## BILL ANALYSIS

Senate Research Center  
87R11933 CXP-F

S.B. 2  
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Business & Commerce  
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As Filed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

#### S.B. 2 - ERCOT Board Reform

February's winter storm exposed a range of weaknesses in the governance, administration, and infrastructure of the Texas electric grid. Elected officials in the Texas Legislature and statewide have expressed a desire for increased oversight in the selection of the leadership of the Board of Directors (BoD) of the Electric Reliability Council Of Texas (ERCOT), the independent system operator responsible for operating the Texas grid. S.B. 2 would modify ERCOT's 16-member BoD to give state leadership more influence over its operations.

#### Changes in S.B. 2 as-filed:

S.B. 2 would require ERCOT's chairman and the members of its BoD to live in Texas. The ERCOT grid is unique in its energy-only market structure, and qualified utility professionals who have worked in this market should be the ones in charge of discussing any modifications to market protocols and other governance issues that the BoD considers.

The bill would require the chairman of the board to be selected by the governor and the proposed chairman would then require Texas Senate (senate) confirmation.

Currently, all protocol changes, from administrative to market protocols, are proposed by sub-groups within ERCOT (such as the Technical Advisory Committee, or TAC) and then adopted by the BoD. S.B. 2 would require all changes to ERCOT protocols to be presented to the Public Utility Commission of Texas (PUC) before adoption so that the PUC commissioners (all three of whom are governor appointees confirmed by the senate) would have the opportunity to veto any changes before they go into effect.

The bill would increase the eligibility requirement in the generation industry segment to require five percent ownership of the statewide fleet. This increase would ensure that the generation assets that the state depends on most are better represented in that market segment.

#### Current Board Structure:

##### Chair:

Vacant - Unaffiliated

##### Vice Chair:

Vacant - Unaffiliated

##### Board Members:

Mark Carpenter - Investor-Owned Utility Segment

Lori Cobos - Consumer - Residential Segment - Ex Officio

Arthur D'Andrea - PUC Chairman - Non-Voting - Ex Officio

Keith Emery - Independent Power Marketer Segment

Nick Fehrenbach - Consumer - Commercial Segment

Kevin Gresham - Independent Generator Segment

Sam Harper - Consumer - Industrial Segment

Bill Magness - ERCOT Chief Executive Officer - Ex Officio

Shannon McClendon - Independent Retail Electric Provider Segment

Julie Parsley - Cooperative Segment

Vacant - Unaffiliated

Vacant - Unaffiliated

Vacant - Unaffiliated

Vacant - Municipal Segment

As proposed, S.B. 2 amends current law relating to independent organizations certified to manage power regions.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Public Utility Commission of Texas is modified in SECTION 1 (Section 39.151, Utilities Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

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

(d) Authorizes the Public Utility Commission of Texas (PUC) to delegate to an independent organization responsibilities for adopting, rather than establishing, certain rules. Prohibits rules adopted by an independent organization and enforcement actions taken by the organization under delegated authority from the PUC from taking effect before receiving PUC approval. Makes nonsubstantive changes.

(g) Requires that an independent organization's governing bylaws require that every member of the governing body, other than members described by Subdivisions (1) and (2) (relating to the chairman of the PUC and the counsellor representing residential and small commercial consumer interests, who serve ex officio), be a resident of Texas. Requires that the governing body be composed of certain individuals, including six market participants elected by their respective market segments to serve one-year terms with each representing certain entities, including one representing independent generators, 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./ Makes nonsubstantive changes.

(g-1) Requires that the bylaws of an independent organization require that the presiding officer of the governing body be one of the members described by Subsection (g)(7) (relating to the members of the governing body unaffiliated with any market segment), and, additionally, be selected by the governor with the advice and consent of the senate. Makes nonsubstantive changes.

(g-2) Requires an independent organization's governing body, to maintain certification as an independent organization under Section 39.151 (Essential Organizations), to establish and implement a formal process for adopting new protocols or revisions to existing protocols. Requires that the process require that new or revised protocols are prohibited from taking effect before receiving PUC approval.

SECTION 2. Requires an independent organization certified under Section 39.151, Utilities Code, by the PUC before September 1, 2021, to modify the organization to comply with Section 39.151, Utilities Code, as amended by this Act, not later than September 1, 2021. Authorizes the PUC, after September 1, 2021, to decertify an independent organization that does not comply with Section 39.151, Utilities Code, as amended by this Act.

SECTION 3. Effective date: upon passage or September 1, 2021.