

1-1 By: Paddie, et al. (Senate Sponsor - Schwertner) H.B. No. 10
1-2 (In the Senate - Received from the House March 31, 2021;
1-3 April 8, 2021, read first time and referred to Committee on
1-4 Jurisprudence; May 22, 2021, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 22, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>PNV</u>
1-8				
1-9	<u>Huffman</u>	X		
1-10	<u>Hinojosa</u>	X		
1-11	<u>Creighton</u>	X		
1-12	<u>Hughes</u>	X		
1-13	<u>Johnson</u>	X		

1-14 COMMITTEE SUBSTITUTE FOR H.B. No. 10 By: Hinojosa

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the governance of the Public Utility Commission of
1-18 Texas, the Office of Public Utility Counsel, and an independent
1-19 organization certified to manage a power region.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section 12.051(a), Utilities Code, is amended to
1-22 read as follows:

1-23 (a) The commission is composed of five [~~three~~]
1-24 commissioners appointed by the governor with the advice and consent
1-25 of the senate.

1-26 SECTION 2. Section 12.053, Utilities Code, is amended by
1-27 amending Subsections (a) and (b) and adding Subsection (a-1) to
1-28 read as follows:

1-29 (a) To be eligible for appointment, a commissioner must:

1-30 (1) be a qualified voter;

1-31 (2) be a citizen of the United States;

1-32 (3) be a resident of this state;

1-33 (4) be a competent and experienced administrator;

1-34 [~~(4) be well informed and qualified in the field of~~
1-35 ~~public utilities and utility regulation,~~] and

1-36 (5) have at least five years of experience:

1-37 (A) in the administration of business or
1-38 government; or

1-39 (B) as a practicing attorney, [~~or~~] certified
1-40 public accountant, or professional engineer.

1-41 (a-1) At least two commissioners must be well informed and
1-42 qualified in the field of public utilities and utility regulation.

1-43 (b) A person is not eligible for appointment as a
1-44 commissioner if the person:

1-45 (1) at any time during the one year [~~two years~~]
1-46 preceding appointment:

1-47 (A) personally served as an officer, director,
1-48 owner, employee, partner, or legal representative of a public
1-49 utility regulated by the commission or of an affiliate or direct
1-50 competitor of a public utility regulated by the commission; [~~or~~]

1-51 (B) owned or controlled, directly or indirectly,
1-52 more than a 10 percent interest in a public utility regulated by the
1-53 commission or in an affiliate or direct competitor of a public
1-54 utility regulated by the commission; or

1-55 (C) served as an executive officer listed under
1-56 Section 1, Article IV, Texas Constitution, other than the secretary
1-57 of state, or a member of the legislature; or

1-58 (2) is not qualified to serve under Section 12.151,
1-59 12.152, or 12.153.

1-60 SECTION 3. Section 13.022(a), Utilities Code, is amended to

2-1 read as follows:

2-2 (a) The counsellor must:

2-3 (1) be licensed to practice law in this state and a
2-4 resident of this state;

2-5 (2) have demonstrated a strong commitment to and
2-6 involvement in efforts to safeguard the rights of the public; and

2-7 (3) possess the knowledge and experience necessary to
2-8 practice effectively in utility proceedings.

2-9 SECTION 4. Section 39.151, Utilities Code, is amended by
2-10 amending Subsections (d), (g), and (g-1) and adding Subsections
2-11 (g-2), (g-3), and (g-4) to read as follows:

2-12 (d) The commission shall adopt and enforce rules relating to
2-13 the reliability of the regional electrical network and accounting
2-14 for the production and delivery of electricity among generators and
2-15 all other market participants, or may delegate to an independent
2-16 organization responsibilities for adopting [~~establishing~~] or
2-17 enforcing such rules. Rules [~~Any such rules~~] adopted by an
2-18 independent organization and [~~any~~] enforcement actions taken by the
2-19 organization under delegated authority from the commission are
2-20 subject to commission oversight and review and may not take effect
2-21 before receiving commission approval. An independent organization
2-22 certified by the commission is directly responsible and accountable
2-23 to the commission. The commission has complete authority to
2-24 oversee and investigate the organization's finances, budget, and
2-25 operations as necessary to ensure the organization's
2-26 accountability and to ensure that the organization adequately
2-27 performs the organization's functions and duties. The organization
2-28 shall fully cooperate with the commission in the commission's
2-29 oversight and investigatory functions. The commission may take
2-30 appropriate action against an organization that does not adequately
2-31 perform the organization's functions or duties or does not comply
2-32 with this section, including decertifying the organization or
2-33 assessing an administrative penalty against the organization. The
2-34 commission by rule shall adopt procedures governing
2-35 decertification of an independent organization, selecting and
2-36 certifying a successor organization, and transferring assets to the
2-37 successor organization to ensure continuity of operations in the
2-38 region. The commission may not implement, by order or by rule, a
2-39 requirement that is contrary to an applicable federal law or rule.

2-40 (g) To maintain certification as an independent
2-41 organization under this section, an organization's governing body
2-42 must be composed of persons specified by this section and selected
2-43 in accordance with formal bylaws or protocols of the organization.
2-44 The bylaws or protocols must be approved by the commission and must
2-45 reflect the input of the commission. The bylaws must specify the
2-46 process by which appropriate stakeholders elect members and, for
2-47 unaffiliated members, prescribe professional qualifications for
2-48 selection as a member. The bylaws must require that every member of
2-49 the governing body be a resident of this state and prohibit a
2-50 legislator from serving as a member. The bylaws may require the use
2-51 of a professional search firm to identify candidates for
2-52 [membership of unaffiliated] members described by Subdivisions
2-53 (4), (5), and (6). The process must allow for commission input in
2-54 identifying candidates. The governing body must be composed of:

2-55 (1) the chairman of the commission as an ex officio
2-56 nonvoting member;

2-57 (2) the counsellor as an ex officio voting member
2-58 representing residential and small commercial consumer interests;

2-59 (3) the chief executive officer of the independent
2-60 organization as an ex officio voting member, who must be appointed
2-61 by the governor with the advice and consent of the senate;

2-62 (4) six market participants elected by their
2-63 respective market segments to serve two-year [~~one-year~~] terms,
2-64 with:

2-65 (A) one representing independent generators,
2-66 elected by a majority vote of the members of this market segment who
2-67 each own and control five percent or more of the installed
2-68 generation capacity located in the power region;

2-69 (B) one representing investor-owned utilities;

3-1 (C) one representing power marketers;
 3-2 (D) one representing retail electric providers
 3-3 who may not be affiliated with an independent generator;
 3-4 (E) one representing municipally owned
 3-5 utilities; and
 3-6 (F) one representing electric cooperatives;
 3-7 (5) one member representing industrial consumer
 3-8 interests and elected by the industrial consumer market segment to
 3-9 serve a two-year [~~one-year~~] term;
 3-10 (6) one member representing large commercial consumer
 3-11 interests selected in accordance with the bylaws to serve a
 3-12 two-year [~~one-year~~] term; and
 3-13 (7) five members unaffiliated with any market segment
 3-14 who must be appointed by the governor with the advice and consent of
 3-15 the senate [~~and selected by the other members of the governing body~~]
 3-16 to serve two-year [~~three-year~~] terms.
 3-17 (g-1) The bylaws of an independent organization must
 3-18 require that the [~~The~~] presiding officer and vice presiding officer
 3-19 of the governing body must be:
 3-20 (1) [~~one of the~~] members described by Subsection
 3-21 (g)(7); and
 3-22 (2) selected by the governor with the advice and
 3-23 consent of the senate.
 3-24 (g-2) A person does not qualify for appointment as a member
 3-25 of the governing body of an independent organization under
 3-26 Subsection (g)(3) or (7) if the person is required to register as a
 3-27 lobbyist under Chapter 305, Government Code. In making an
 3-28 appointment under Subsection (g)(3) or (7), the governor:
 3-29 (1) shall give preference to a person who has
 3-30 executive-level business experience representing a range of
 3-31 industries; and
 3-32 (2) may consider a person recommended by the
 3-33 legislature.
 3-34 (g-3) Members of the governing body of an independent
 3-35 organization certified under this section must serve staggered
 3-36 terms. A member described by Subsection (g)(4) or (5) must serve a
 3-37 term that expires in an even-numbered year. A member described by
 3-38 Subsection (g)(6) or (7) must serve a term that expires in an
 3-39 odd-numbered year. As soon as practicable after the date a member
 3-40 of the governing body's term expires, the appropriate authority
 3-41 must appoint or arrange for the election of a replacement in the
 3-42 same manner as the original appointment or election. If a vacancy
 3-43 occurs on the governing body, the appropriate authority must
 3-44 appoint or arrange for the election of a successor in the same
 3-45 manner as the original appointment or election to serve for the
 3-46 remainder of the unexpired term.
 3-47 (g-4) To maintain certification as an independent
 3-48 organization under this section, the organization's governing body
 3-49 must establish and implement a formal process for adopting new
 3-50 protocols or revisions to existing protocols. The process must
 3-51 require that new or revised protocols may not take effect until the
 3-52 commission approves a market impact statement describing the new or
 3-53 revised protocols.
 3-54 SECTION 5. In making appointments of commissioners to the
 3-55 Public Utility Commission of Texas under Section 12.051, Utilities
 3-56 Code, as amended by this Act, the governor shall assign staggered
 3-57 terms to the commissioners appointed to fill vacancies and to the
 3-58 commissioners appointed to new positions to ensure that the
 3-59 requirements of Section 30a, Article XVI, Texas Constitution, are
 3-60 met.
 3-61 SECTION 6. An independent organization certified under
 3-62 Section 39.151, Utilities Code, by the Public Utility Commission of
 3-63 Texas before September 1, 2021, shall modify the organization to
 3-64 comply with Section 39.151, Utilities Code, as amended by this Act,
 3-65 not later than September 1, 2021. After September 1, 2021, the
 3-66 Public Utility Commission of Texas may decertify an independent
 3-67 organization that does not comply with Section 39.151, Utilities
 3-68 Code, as amended by this Act.
 3-69 SECTION 7. This Act takes effect immediately if it receives

4-1 a vote of two-thirds of all the members elected to each house, as
4-2 provided by Section 39, Article III, Texas Constitution. If this
4-3 Act does not receive the vote necessary for immediate effect, this
4-4 Act takes effect September 1, 2021.

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