

By: Paddie

H.B. No. 1520

Substitute the following for H.B. No. 1520:

By: Darby

C.S.H.B. No. 1520

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the recovery and securitization of certain
3 extraordinary costs incurred by certain gas utilities; providing
4 authority to issue bonds and impose fees and assessments.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section [1232.002](#), Government Code, is amended to
7 read as follows:

8 Sec. 1232.002. PURPOSE. The purpose of this chapter is to
9 provide a method of financing for:

10 (1) the acquisition or construction of buildings;

11 [~~and~~]

12 (2) the purchase or lease of equipment by executive or
13 judicial branch state agencies; and

14 (3) customer rate relief bonds authorized by the
15 Railroad Commission of Texas.

16 SECTION 2. Section [1232.066](#)(a), Government Code, is amended
17 to read as follows:

18 (a) The board's authority under this chapter is limited to
19 the financing of:

20 (1) the acquisition or construction of a building;

21 (2) the purchase or lease of equipment; [~~or~~]

22 (3) stranded costs of a municipal power agency; or

23 (4) customer rate relief bonds approved by the
24 Railroad Commission of Texas.

1 SECTION 3. Subchapter C, Chapter 1232, Government Code, is
2 amended by adding Section 1232.1072 to read as follows:

3 Sec. 1232.1072. ISSUANCE OF OBLIGATIONS FOR FINANCING
4 CUSTOMER RATE RELIEF BONDS. (a) The authority, either directly or
5 by means of a trust established by the authority, may issue
6 obligations or other evidences of indebtedness for financing
7 customer rate relief bonds approved under Subchapter I, Chapter
8 104, Utilities Code.

9 (b) On a request to the authority from the Railroad
10 Commission of Texas, the authority shall:

11 (1) issue obligations or other evidences of
12 indebtedness in the amount of the requested customer rate relief
13 bonds, plus the issuance costs; and

14 (2) grant to the Railroad Commission of Texas the
15 proceeds of the obligations or evidences of indebtedness described
16 by Subdivision (1).

17 (c) The request from the Railroad Commission of Texas
18 described by Subsection (b) must include a statement of the payment
19 terms for recovering customer rate relief costs.

20 (d) Obligations or evidences of indebtedness the authority
21 issues under this section must be created under financing orders
22 issued by the Railroad Commission of Texas. The financing orders
23 must authorize the authority to create legally isolated,
24 bankruptcy-remote financing entities to hold customer rate relief
25 property. The authority may establish a financing entity
26 authorized by a financing order.

27 (e) Obligations or evidences of indebtedness the authority

1 issues under this section for each approved customer rate relief
2 financing must include, as part of the financing costs of the
3 financing, the administrative costs related to the financing.

4 (f) Obligations or evidences of indebtedness the authority
5 issues under this section must be secured by:

6 (1) customer rate relief property, as defined by
7 Section 104.362, Utilities Code; and

8 (2) customer rate relief charges, as defined by
9 Section 104.362, Utilities Code, that are nonbypassable, as defined
10 by that section, imposed by the authority on customers receiving
11 natural gas services provided by the gas utility, as defined by that
12 section, that is making the request to recover a regulatory asset
13 under Section 104.365, Utilities Code.

14 (g) The customer rate relief property and customer rate
15 relief charges described by Subsection (f) must be consistent with
16 the customer rate relief recovery terms stated in the gas utility's
17 request to recover a regulatory asset under Section 104.365,
18 Utilities Code, unless otherwise approved by the Railroad
19 Commission of Texas.

20 (h) An obligation or evidence of indebtedness the authority
21 issues under this section is not a debt of this state, the Railroad
22 Commission of Texas, or a gas utility.

23 (i) The Railroad Commission of Texas shall provide to the
24 authority assistance necessary to ensure that the customer rate
25 relief charges described by Subsection (f) are collected and
26 enforced, either directly or by using the assistance and powers of
27 the gas utility requesting to recover a regulatory asset under

1 Section 104.365, Utilities Code, as servicer.

2 (j) The authority and the Railroad Commission of Texas have
3 all the powers necessary to perform the duties and responsibilities
4 described by this section. This section shall be interpreted
5 broadly in a manner consistent with the most cost-effective
6 financing of customer rate relief related costs.

7 (k) Obligations or evidences of indebtedness issued by the
8 authority under this section may be structured so that any interest
9 on the obligations or evidences of indebtedness is excluded from
10 gross income for federal income tax purposes. Any interest on the
11 obligations or evidences of indebtedness is not subject to taxation
12 by and may not be included as part of the measurement of a tax by
13 this state or a political subdivision of this state.

14 (l) The authority shall make periodic reports to the
15 Railroad Commission of Texas and the public regarding each
16 financing made under this section.

17 SECTION 4. Section [1232.108](#), Government Code, is amended to
18 read as follows:

19 Sec. 1232.108. LEGISLATIVE AUTHORIZATION REQUIRED. Except
20 as permitted by Section [1232.1072](#), [1232.109](#), [2166.452](#), or [2166.453](#),
21 before the board may issue and sell bonds, the legislature by the
22 General Appropriations Act or other law must have authorized:

23 (1) the specific project for which the bonds are to be
24 issued and sold; and

25 (2) the estimated cost of the project or the maximum
26 amount of bonded indebtedness that may be incurred by the issuance
27 and sale of bonds for the project.

1 SECTION 5. Chapter 104, Utilities Code, is amended by
2 adding Subchapter I to read as follows:

3 SUBCHAPTER I. CUSTOMER RATE RELIEF BONDS

4 Sec. 104.361. PURPOSE; RAILROAD COMMISSION DUTY. (a) The
5 purpose of this subchapter is to reduce the cost that customers
6 would otherwise experience because of extraordinary costs that gas
7 utilities incur to secure gas supply and provide service during
8 natural and man-made disasters, system failures, or other
9 catastrophic events, and to restore gas utility systems after those
10 types of events, by providing securitization financing for gas
11 utilities to recover those costs. The securitization financing
12 mechanism authorized by this subchapter will:

13 (1) provide rate relief to customers by extending the
14 period during which the extraordinary costs described by Subsection
15 (a) are recovered from customers; and

16 (2) support the financial strength and stability of
17 gas utility companies.

18 (b) The railroad commission shall ensure that:

19 (1) securitization provides tangible and quantifiable
20 benefits to customers, greater than would have been achieved absent
21 the issuance of customer rate relief bonds; and

22 (2) the structuring and pricing of the customer rate
23 relief bonds result in customer rate relief bond charges consistent
24 with the terms of the applicable financing order and market
25 conditions at the time of the pricing of the customer rate relief
26 bonds.

27 Sec. 104.362. DEFINITIONS. In this subchapter:

1 (1) "Ancillary agreement" means a financial
2 arrangement entered into in connection with the issuance or payment
3 of customer rate relief bonds that enhances the marketability,
4 security, or creditworthiness of customer rate relief bonds,
5 including a bond, insurance policy, letter of credit, reserve
6 account, surety bond, interest rate or currency swap arrangement,
7 interest rate lock agreement, forward payment conversion
8 agreement, other hedging arrangement, or liquidity or credit
9 support arrangement.

10 (2) "Assignee" means any legally recognized entity to
11 which an interest in customer rate relief property is transferred,
12 other than as security. The term includes a corporation, limited
13 liability company, public authority, trust, general partnership,
14 limited partnership, or other financing entity.

15 (3) "Authority" means the Texas Public Finance
16 Authority.

17 (4) "Bond administrative expenses" means expenses
18 incurred to administer customer rate relief bonds issued under this
19 subchapter, including fees for paying agents, trustees, and
20 attorneys, and for paying for other professional services necessary
21 to ensure compliance with applicable state or federal law.

22 (5) "Bond obligations" means the principal of a
23 customer rate relief bond and any premium and interest on a customer
24 rate relief bond issued under this subchapter, together with any
25 amount owed under a related ancillary agreement or credit
26 agreement.

27 (6) "Credit agreement" means a loan agreement,

1 revolving credit agreement, agreement establishing a line of
2 credit, or similar financing arrangement.

3 (7) "Customer rate relief bonds" means bonds, notes,
4 certificates, or other evidences of indebtedness or ownership the
5 proceeds of which are used directly or indirectly to recover,
6 finance, or refinance regulatory assets approved by the railroad
7 commission, including extraordinary costs and related financing
8 costs, and that are:

9 (A) issued by an assignee under a financing
10 order; and

11 (B) payable from and secured by customer rate
12 relief property and amounts on deposit in the obligation trust fund
13 to the extent provided by the applicable financing order.

14 (8) "Customer rate relief charges" means the amounts
15 authorized by the railroad commission as nonbypassable charges to
16 repay, finance, or refinance regulatory assets, including
17 extraordinary costs, financing costs, and other costs authorized by
18 the financing order:

19 (A) imposed on and included in customer bills of
20 a gas utility that has received a regulatory asset determination
21 under Section 104.365;

22 (B) collected in full by a gas utility that has
23 received a regulatory asset determination under Section 104.365, or
24 its successors or assignees, or a collection agent, as servicer,
25 separate and apart from the gas utility's base rates; and

26 (C) paid by all existing or future customers
27 receiving service from a gas utility that has received a regulatory

1 asset determination under Section 104.365 or its successors or
2 assignees, even if a customer elects to purchase gas from an
3 alternative gas supplier.

4 (9) "Customer rate relief property" means property
5 described by Section 104.367.

6 (10) "Financing costs" means any of the following:

7 (A) interest and acquisition, defeasance, or
8 redemption premiums that are payable on customer rate relief bonds;

9 (B) a payment required under an ancillary
10 agreement and an amount required to fund or replenish reserve or
11 other accounts established under the terms of an indenture,
12 ancillary agreement, or other financing document pertaining to
13 customer rate relief bonds;

14 (C) issuance costs and ongoing costs related to
15 supporting, repaying, servicing, or refunding customer rate relief
16 bonds, including servicing fees, accounting and auditing fees,
17 trustee fees, legal fees and expenses, consulting fees,
18 administrative fees, printing fees, financial advisor fees and
19 expenses, Securities and Exchange Commission registration fees,
20 issuer fees, placement and underwriting fees, capitalized
21 interest, overcollateralization funding requirements, rating
22 agency fees, stock exchange listing and compliance fees, filing
23 fees, and any other bond administration expenses; and

24 (D) the costs to the railroad commission of
25 acquiring professional services for the purpose of evaluating
26 extraordinary costs under this subchapter.

27 (11) "Financing order" means an order adopted under

1 Section 104.366 approving the issuance of customer rate relief
2 bonds and the creation of customer rate relief property and
3 associated customer rate relief charges for the recovery of
4 regulatory assets, including extraordinary costs, related
5 financing costs, and other costs authorized by the financing order.

6 (12) "Financing party" means a holder of customer rate
7 relief bonds, including a trustee, collateral agent, any party
8 under an ancillary agreement, or other person acting for the
9 holder's benefit.

10 (13) "Gas utility" means:

11 (A) an operator of natural gas distribution
12 pipelines that delivers and sells natural gas to the public and that
13 is subject to the railroad commission's jurisdiction under Section
14 102.001; or

15 (B) an operator that transmits, transports,
16 delivers, or sells natural gas or synthetic natural gas to
17 operators of natural gas distribution pipelines and whose rates for
18 those services are established by the railroad commission in a rate
19 proceeding filed under this chapter.

20 (14) "Nonbypassable" means a charge that may not be
21 offset by any credit.

22 (15) "Normalized market pricing" means the average
23 monthly pricing at the Henry Hub for the three months immediately
24 preceding the month during which extraordinary costs were incurred,
25 plus contractual adders to the index price and other non-indexed
26 gas procurement costs.

27 (16) "Regulatory asset" includes extraordinary costs:

1 (A) recorded by a gas utility in the utility's
2 books and records in accordance with the uniform system of accounts
3 prescribed for natural gas companies subject to the provisions of
4 the Natural Gas Act (15 U.S.C. Section 717 et seq.) by the Federal
5 Energy Regulatory Commission and generally accepted accounting
6 principles; or

7 (B) classified as a receivable or financial asset
8 under international financial reporting standards under the
9 railroad commission's authorization in the Notice of Authorization
10 for Regulatory Asset Accounting for Local Distribution Companies
11 Affected by the February 2021 Winter Weather Event issued February
12 13, 2021, or any later notice or order issued by the railroad
13 commission for other similarly authorized natural or man-made
14 disasters or system failure events.

15 Sec. 104.363. EXTRAORDINARY COSTS. (a) For the purposes of
16 this subchapter, extraordinary costs are the reasonable and
17 necessary costs placed in a regulatory asset and approved by the
18 railroad commission in a regulatory asset determination under
19 Section 104.365.

20 (b) Extraordinary costs include any costs of acquiring,
21 retiring, and refunding a gas utility's existing debt and equity
22 securities or credit facilities in connection with the issuance of
23 customer rate relief bonds.

24 (c) Extraordinary costs may include costs incurred to serve
25 customers, including capital costs and other costs expensed,
26 charged to self-insurance reserves, deferred, capitalized, or
27 otherwise financed, that are incurred by a gas utility or on behalf

1 of the gas utility for gas procurement, supply and system
2 restoration and infrastructure, operations and administration in
3 response to:

4 (1) a tropical storm or hurricane, ice or snow storm,
5 flood, or other weather-related event;

6 (2) a natural or man-made disaster;

7 (3) a system failure; or

8 (4) another catastrophic event.

9 (d) Extraordinary costs may include:

10 (1) natural gas procurement costs above normalized
11 market pricing, mobilization, staging, construction,
12 reconstruction, replacement, or repair of system facilities; and

13 (2) reasonable estimates of the costs of natural gas
14 procurement above normalized market pricing and any activity
15 conducted or expected to be conducted by or on behalf of the gas
16 utility in connection with the restoration of service or
17 infrastructure associated with natural gas outages.

18 (e) Cost estimates described by Subsection (d)(2) may be
19 subject to reconciliation after the actual costs become known
20 before the railroad commission makes a determination as to the
21 utility's regulatory asset in accordance with Section 104.365.

22 (f) A carrying charge interest rate at the gas utility's
23 cost of long-term debt as last approved by the railroad commission
24 in a general rate proceeding may be considered an extraordinary
25 cost if the railroad commission's final order approving the cost of
26 long-term debt was filed not more than three years before the date
27 the application for regulatory asset recovery was filed. The

1 railroad commission's final order may be an order on rehearing.

2 (g) If the railroad commission's final order approving the
3 gas utility's current cost of long-term debt does not meet the
4 requirements of Subsection (f), an alternative cost of long-term
5 debt must be used that reflects the average cost of long-term debt
6 established by the railroad commission for all gas utilities based
7 on final orders issued in the most recent three-year period
8 preceding the date the application for regulatory asset recovery is
9 filed.

10 (h) The carrying charge interest rate set at the applicable
11 cost of long-term debt described by Subsection (f) or (g) must be
12 applied from the date on which the extraordinary costs were
13 incurred until the date that:

- 14 (1) customer rate relief bonds are issued; or
15 (2) extraordinary costs are otherwise recovered by the
16 gas utility under this subchapter.

17 Sec. 104.364. JURISDICTION AND POWERS OF RAILROAD
18 COMMISSION AND OTHER REGULATORY AUTHORITIES. (a) The railroad
19 commission may authorize the issuance of customer rate relief bonds
20 if the requirements of Section 104.366 are met.

21 (b) The railroad commission may assess to a gas utility
22 costs associated with administering this subchapter. Assessments
23 must be recovered from rate-regulated customers as part of gas
24 cost.

25 (c) The railroad commission has exclusive, original
26 jurisdiction to issue financing orders that authorize the creation
27 of customer rate relief property, customer rate relief charges to

1 service customer rate relief bonds, and financing costs. Customer
2 rate relief charges, if authorized by the railroad commission
3 through a financing order in that commission's sole discretion,
4 must be imposed pursuant to customer rate relief property and not by
5 a gas utility.

6 (d) Except as provided by Subsection (c), this subchapter
7 does not limit or impair a regulatory authority's plenary
8 jurisdiction over the rates, charges, and services rendered by gas
9 utilities in this state under Chapter 102.

10 Sec. 104.365. REGULATORY ASSET DETERMINATION. (a) The
11 railroad commission, on application of a gas utility to recover a
12 regulatory asset, shall determine the regulatory asset amount to be
13 recovered by the gas utility.

14 (b) A gas utility desiring to participate in the customer
15 rate relief bond process under a financing order must file an
16 application with the railroad commission not later than the 90th
17 day after the date of the conclusion of the event for which
18 regulatory asset recovery is requested. The railroad commission
19 shall determine an application date deadline consistent with this
20 subsection.

21 (c) Notwithstanding the deadline provided by Subsection
22 (b), a gas utility desiring to participate in the customer rate
23 relief bond process under a financing order by requesting recovery
24 of a regulatory asset relating to the February 2021 winter storm may
25 file an application with the railroad commission on or before the
26 60th day after the effective date of the Act enacting this
27 subchapter.

1 (d) If the railroad commission does not make a final
2 determination regarding the regulatory asset amount to be recovered
3 by a gas utility before the 91st day after the gas utility files the
4 application, the railroad commission is considered to have approved
5 the regulatory asset amount requested by the gas utility.

6 (e) The regulatory asset determination is not subject to
7 reduction, impairment, or adjustment by further action of the
8 railroad commission, except as authorized by Section 104.370.

9 (f) The regulatory asset determination is not subject to
10 rehearing by the railroad commission and may be appealed only to a
11 Travis County district court by a party to the proceeding. The
12 appeal must be filed not later than the 15th day after the date the
13 order is signed by the railroad commission.

14 (g) The judgment of the district court may be reviewed only
15 by direct appeal to the Supreme Court of Texas. The appeal must be
16 filed not later than the 15th day after the date of entry of
17 judgment.

18 (h) All appeals shall be heard and determined by the
19 district court and the Supreme Court of Texas as expeditiously as
20 possible with lawful precedence over other matters. Review on
21 appeal shall be based solely on the record before the railroad
22 commission and briefs to the court and limited to whether the
23 financing order:

24 (1) complies with the constitution and laws of this
25 state and the United States; and

26 (2) is within the authority of the railroad commission
27 to issue under this subchapter.

1 (i) The railroad commission by order shall establish a
2 schedule, filing requirements, and a procedure for determining the
3 prudence of the costs included in a gas utility's regulatory asset.

4 (j) To the extent a gas utility subject to this subchapter
5 receives insurance proceeds, governmental grants, or other sources
6 of funding that compensate or otherwise reimburse or indemnify the
7 gas utility for extraordinary costs following the issuance of
8 customer rate relief bonds, the gas utility may record the amount in
9 a regulatory liability account and that amount shall be reviewed in
10 a future proceeding. If an audit conducted under a valid gas
11 purchase agreement identifies a change of greater than five percent
12 to the total amount of the gas supply costs incurred during the
13 event described by Section 104.363(c), the gas utility may record
14 the amount in a regulatory asset or regulatory liability account
15 and that amount shall be reviewed for recovery in a future
16 proceeding.

17 Sec. 104.366. FINANCING ORDERS AND ISSUANCE OF CUSTOMER
18 RATE RELIEF BONDS. (a) If the railroad commission determines that
19 customer rate relief bond financing for extraordinary costs is the
20 most cost-effective method of funding regulatory asset
21 reimbursements to be made to gas utilities, the railroad
22 commission, after the final resolution of all applications filed
23 under Section 104.365, may request the authority to issue customer
24 rate relief bonds on the railroad commission's behalf. Before
25 making the request, the railroad commission must issue a financing
26 order that complies with this section.

27 (b) To make the determination described by Subsection (a),

1 the railroad commission must find that the proposed structuring,
2 expected pricing, and proposed financing costs of the customer rate
3 relief bonds are reasonably expected to provide benefits to
4 customers by comparing:

5 (1) the net present value of the costs to customers
6 resulting from the issuance of customer rate relief bonds; and

7 (2) the costs that would result from the application
8 of conventional methods of financing or recovering gas utility
9 extraordinary costs and other costs authorized by a financing
10 order.

11 (c) The financing order must:

12 (1) include a finding that the use of the
13 securitization financing mechanism is in the public interest and
14 consistent with the purposes of this subchapter;

15 (2) detail the total amount of the regulatory asset
16 determinations to be included in the customer rate relief bond
17 issuance;

18 (3) authorize the recovery of any tax obligation of
19 the gas utilities arising or resulting from:

20 (A) receipt of customer rate relief bond
21 proceeds; or

22 (B) collection or remittance of customer rate
23 relief charges through the gas utilities' gas cost recovery
24 mechanism or other means that the railroad commission determines
25 reasonable;

26 (4) authorize the authority's issuance of customer
27 rate relief bonds through one or more legally isolated,

1 bankruptcy-remote financing entities established by the authority;

2 (5) include a statement of:

3 (A) the aggregated regulatory asset
4 determination to be included in the principal amount of the
5 customer rate relief bonds, not to exceed \$10 billion for any
6 separate bond issue; and

7 (B) the maximum scheduled final maturity of the
8 customer rate relief bonds, not to exceed 30 years, except that the
9 legal final maturity may be longer based on rating agency and market
10 considerations;

11 (6) provide for the imposition, collection, and
12 mandatory periodic formulaic adjustment of customer rate relief
13 charges in accordance with Section 104.370 by all gas utilities for
14 which a regulatory asset determination has been made under Section
15 104.365 to guarantee that the bonds will be paid in full;

16 (7) authorize the creation of customer rate relief
17 property in favor of the authority and the authority's transfer of
18 the property;

19 (8) direct the authority to disperse the proceeds of
20 customer rate relief bonds to gas utilities for which a regulatory
21 asset determination has been made under Section 104.365 and include
22 the amounts to be distributed;

23 (9) provide that customer rate relief charges be
24 collected and allocated among customers of each utility for which a
25 regulatory determination has been made under Section 104.365
26 through uniform monthly volumetric charges to be paid by customers
27 as a component of the gas utility's gas cost or in another manner

1 that the railroad commission determines reasonable; and

2 (10) reflect the commitment made by each gas utility
3 receiving proceeds that the proceeds are in lieu of recovery of
4 those costs through the regular ratemaking process or other
5 mechanism to the extent the costs are reimbursed to the gas utility
6 by customer rate relief bond financing proceeds.

7 (d) The principal amount determined by the railroad
8 commission may be increased to include an amount sufficient to:

9 (1) pay the financing costs for issuance;

10 (2) reimburse the authority for any costs incurred for
11 the issuance;

12 (3) provide a bond reserve fund; and

13 (4) capitalize interest for the period determined
14 necessary by the railroad commission.

15 (e) The authority, consistent with this subchapter and the
16 terms of the financing order, shall:

17 (1) issue customer rate relief bonds at the railroad
18 commission's request, in accordance with the requirements of
19 Chapter 1232, Government Code, and other provisions of Title 9,
20 Government Code, that apply to bond issuance by a state agency; and

21 (2) determine the methods of sale, types of bonds,
22 bond forms, maximum interest rates, and other terms of the customer
23 rate relief bonds that in the authority's judgment best achieve the
24 economic goals of the financing order and effect the financings at
25 the lowest practicable cost.

26 (f) The authority shall establish legally isolated,
27 bankruptcy-remote financing entities and may enter into credit

1 agreements or ancillary agreements in connection with the issuance
2 of customer rate relief bonds.

3 (g) The financing order becomes effective in accordance
4 with its terms. The financing order, together with the customer
5 rate relief property and the customer rate relief charges
6 authorized by the financing order, are irrevocable and not subject
7 to reduction, impairment, or adjustment by further action of the
8 railroad commission, except as provided under Subsection (i) and
9 authorized by Section 104.370.

10 (h) The railroad commission shall issue a financing order
11 under this section not later than the 90th day following the date of
12 the conclusion of all proceedings filed under Section 104.365.

13 (i) A financing order is not subject to rehearing by the
14 railroad commission. A financing order may be appealed only to a
15 Travis County district court by a party to the proceeding. The
16 appeal must be filed not later than the 15th day after the date the
17 financing order is signed by the railroad commission.

18 (j) The judgment of the district court may be reviewed only
19 by direct appeal to the Supreme Court of Texas. The appeal must be
20 filed not later than the 15th day after the date of entry of
21 judgment.

22 (k) All appeals shall be heard and determined by the
23 district court and the Supreme Court of Texas as expeditiously as
24 possible with lawful precedence over other matters. Review on
25 appeal shall be based solely on the record before the railroad
26 commission and briefs to the court and is limited to whether the
27 financing order:

1 (1) complies with the constitution and laws of this
2 state and the United States; and

3 (2) is within the authority of the railroad commission
4 to issue under this subchapter.

5 (1) The authority shall issue customer rate relief bonds not
6 later than the 45th day after receipt of a financing order issued
7 under this section.

8 (m) The authority shall deliver customer rate relief bond
9 proceeds net of upfront financing costs to each gas utility
10 sufficient to reimburse the gas utility the regulatory asset amount
11 determined to be reasonable under Section 104.365 not later than
12 the 15th day after the date of issuance of the customer rate relief
13 bonds.

14 (n) For the weather-related event that occurred in February
15 2021, the authority shall deliver customer rate relief bond
16 proceeds net of upfront financing costs to each gas utility no later
17 than December 31, 2021. This subsection expires September 1, 2023.

18 Sec. 104.367. PROPERTY RIGHTS. (a) Customer rate relief
19 bonds are solely the obligation of the assignee or issuing
20 financing entity and are not a debt of a gas utility or a debt or a
21 pledge of the faith and credit of this state or any political
22 subdivision of this state.

23 (b) Customer rate relief bonds are nonrecourse to the credit
24 or any assets of this state or the authority.

25 (c) The rights and interests of the authority or the
26 authority's successor under a financing order, including the right
27 to impose and receive customer rate relief charges authorized in

1 the financing order, are only contract rights until first
2 transferred to an assignee or pledged in connection with the
3 issuance of the customer rate relief bonds, at which time the rights
4 and interests become customer rate relief property.

5 (d) Customer rate relief property constitutes a present
6 property right for purposes of contracts concerning the sale or
7 pledge of property, notwithstanding that the imposition and
8 collection of customer rate relief charges depends on further acts
9 of the gas utility or others that have not yet occurred. The
10 financing order remains in effect, and the customer rate relief
11 property continues to exist, for the same period as the pledge of
12 the state described by Section 104.374.

13 (e) All revenue and collections resulting from customer
14 rate relief charges constitute proceeds only of a property right
15 arising from the financing order.

16 (f) An amount owed by the authority or an issuer under a
17 credit agreement is payable from and secured by the customer rate
18 relief property, including customer rate relief charges and amounts
19 to the extent provided in the proceedings authorizing the credit
20 agreement.

21 Sec. 104.368. PROPERTY INTEREST NOT SUBJECT TO SETOFF,
22 COUNTERCLAIM, SURCHARGE, OR DEFENSE. The interest of an assignee
23 or pledgee in customer rate relief property, including the revenue
24 and collections arising from customer rate relief charges, are not
25 subject to setoff, counterclaim, surcharge, or defense by the gas
26 utility or any other person or in connection with the bankruptcy of
27 the gas utility, the authority, or any other entity. A financing

1 order remains in effect and unabated notwithstanding the bankruptcy
2 of the gas utility or authority, or any successor or assignee of the
3 gas utility or authority.

4 Sec. 104.369. CUSTOMER RATE RELIEF CHARGES NONBYPASSABLE.

5 A financing order must include terms ensuring that the imposition
6 and collection of the customer rate relief charges authorized in
7 the order are nonbypassable.

8 Sec. 104.370. TRUE-UP MECHANISM. (a) A financing order

9 must include a formulaic true-up charge adjustment mechanism that
10 requires that the customer rate relief charges be reviewed and
11 adjusted at least annually, at time periods and frequencies
12 provided in the financing order, to:

13 (1) correct any overcollections or undercollections
14 of the preceding 12 months; and

15 (2) ensure the expected recovery of amounts sufficient
16 to provide for the timely payment of upcoming scheduled customer
17 rate relief bond payments and financing costs.

18 (b) True-up charge adjustments must become effective not
19 later than the 30th day after the date the railroad commission
20 receives a true-up charge adjustment letter from the gas utility or
21 replacement servicer notifying the railroad commission of the
22 pending adjustment.

23 (c) Any administrative review of true-up charge adjustments
24 must be limited to notifying the servicer of mathematical or
25 clerical errors in the calculation. The servicer may correct the
26 error and refile a true-up charge adjustment letter, with the
27 adjustment becoming effective as soon as practicable but not later

1 than the 30th day after the date the railroad commission receives
2 the refiled letter.

3 Sec. 104.371. SECURITY INTERESTS; ASSIGNMENT; COMMINGLING;
4 DEFAULT. (a) Customer rate relief property does not constitute an
5 account or general intangible under Section 9.106, Business &
6 Commerce Code. The creation, granting, perfection, and enforcement
7 of liens and security interests in customer rate relief property
8 are governed by this section and not by the Business & Commerce
9 Code.

10 (b) A valid and enforceable lien and security interest in
11 customer rate relief property may be created only by a financing
12 order and the execution and delivery of a security agreement with a
13 financing party in connection with the issuance of customer rate
14 relief bonds. The lien and security interest attach automatically
15 from the time that value is received for the customer rate relief
16 bonds and, on perfection through the filing of notice with the
17 secretary of state in accordance with the rules prescribed under
18 Subsection (d), are a continuously perfected lien and security
19 interest in the customer rate relief property and all proceeds of
20 the property, whether accrued or not, have priority in the order of
21 filing and take precedence over any subsequent judicial or other
22 lien creditor. The security interest is perfected as of the date of
23 the filing, except that if notice is filed before the 11th day after
24 value is received for the customer rate relief bonds, the security
25 interest is perfected retroactive to the date value was received.

26 (c) Transfer of an interest in customer rate relief property
27 to an assignee is perfected against all third parties, including

1 subsequent judicial or other lien creditors, when the financing
2 order becomes effective, transfer documents have been delivered to
3 the assignee, and a notice of that transfer has been filed in
4 accordance with the rules prescribed under Subsection (d). If
5 notice of the transfer is not filed in accordance with this
6 subsection before the 11th day after the delivery of transfer
7 documentation, the transfer of the interest is not perfected
8 against third parties until the notice is filed.

9 (d) The secretary of state shall:

10 (1) establish and maintain a separate system of
11 records for the filing of notices under this section; and

12 (2) adopt rules governing filing notices under this
13 section that are based on Chapter 9, Business & Commerce Code,
14 adapted to this subchapter, and use the terms as defined by this
15 subchapter.

16 (e) The priority of a lien and security interest perfected
17 under this section is not impaired by any later modification of the
18 financing order under a mechanism adopted under Section 104.370 or
19 by the commingling of funds arising from customer rate relief
20 charges with other funds. Any other security interest that may
21 apply to those funds is terminated when the funds are transferred to
22 a segregated account for the assignee or a financing party. If
23 customer rate relief property has been transferred to an assignee,
24 any proceeds of that property must be held in trust for the
25 assignee.

26 (f) If a default or termination occurs under the customer
27 rate relief bonds, a district court of Travis County, on

1 application by or on behalf of the financing parties, shall order
2 the sequestration and payment to the financing parties of revenue
3 arising from the customer rate relief charges.

4 Sec. 104.372. BOND PROCEEDS IN TRUST. (a) The authority
5 may deposit proceeds of customer rate relief bonds issued by or on
6 behalf of the authority under this subchapter with a trustee
7 selected by the authority or the proceeds may be held by the
8 comptroller in a dedicated trust fund outside the state treasury in
9 the custody of the comptroller.

10 (b) Bond proceeds, including investment income, must be
11 held in trust for the exclusive benefit of the railroad
12 commission's policy of reimbursing gas utility costs. The
13 authority shall use the proceeds to:

14 (1) reimburse each gas utility the regulatory asset
15 amount determined to be reasonable for that gas utility in the
16 financing order;

17 (2) pay the financing costs of issuing the bonds; and

18 (3) provide bond reserves, as applicable.

19 (c) If there are no outstanding bonds or bond interest to be
20 paid, the remaining proceeds must be used to provide credits to gas
21 utility customers.

22 Sec. 104.373. REPAYMENT OF CUSTOMER RATE RELIEF BONDS. (a)
23 If any customer rate relief bonds or related financing costs remain
24 outstanding, uniform monthly volumetric customer rate relief
25 charges must be paid by all current and future customers that
26 receive service from a gas utility for which a regulatory asset
27 determination has been made under Section 104.365. A gas utility

1 and its successors, assignees, or replacements, shall continue to
2 bill and collect, as servicer, customer rate relief charges from
3 the gas utility's current and future customers until all customer
4 rate relief bonds and financing costs are paid in full.

5 (b) The authority shall report to the railroad commission
6 the amount of the outstanding customer rate relief bonds issued by
7 the authority under this subchapter and the estimated amount of
8 annual bond administrative expenses.

9 (c) All revenue collected from the customer rate relief
10 charges shall be remitted promptly by the applicable servicers to
11 the authority to pay bond obligations, ongoing financing costs, and
12 bond administrative expenses to ensure timely payment of bond
13 obligations and financing costs.

14 (d) Revenue received from the customer rate relief charges
15 may be applied only as provided by this subchapter.

16 (e) Bond obligations are payable only from sources provided
17 for payment by this subchapter.

18 Sec. 104.374. PLEDGE OF STATE. (a) Customer rate relief
19 bonds issued under this subchapter and any related ancillary
20 agreements or credit agreements are not a debt or pledge of the
21 faith and credit of this state or a state agency or political
22 subdivision of this state. A customer rate relief bond, ancillary
23 agreement, or credit agreement is payable solely from customer rate
24 relief charges as provided by this subchapter.

25 (b) Notwithstanding Subsection (a), this state, including
26 the railroad commission and the authority, pledges for the benefit
27 and protection of the financing parties and the gas utility that

1 this state will not take or permit any action that would impair the
2 value of customer rate relief property, or, except as permitted by
3 Section 104.370, reduce, alter, or impair the customer rate relief
4 charges to be imposed, collected, and remitted to financing parties
5 until the principal, interest and premium, and contracts to be
6 performed in connection with the related customer rate relief bonds
7 and financing costs have been paid and performed in full. The
8 authority or any other entity issuing customer rate relief bonds
9 may include this pledge in any documentation relating to those
10 bonds.

11 Sec. 104.375. TAX EXEMPTION. (a) Customer rate relief
12 bonds issued under this subchapter, transactions relating to
13 customer rate relief bonds, and profits made from the sale of
14 customer rate relief bonds are exempt from taxation by this state or
15 a political subdivision of this state.

16 (b) A gas utility's receipt or collection of customer rate
17 relief charges is exempt from state and local income, sales,
18 franchise, gross receipts, and other taxes or similar assessments.

19 (c) A tax obligation of the gas utility arising from receipt
20 of customer rate relief bond proceeds or from the collection or
21 remittance of customer rate relief charges is an expense that may be
22 recovered by the gas utility.

23 Sec. 104.376. ASSIGNEE OR FINANCING PARTY NOT PUBLIC
24 UTILITY. An assignee or financing party may not be considered to be
25 a public utility or person providing natural gas service solely by
26 virtue of the transactions described by this subchapter.

27 Sec. 104.377. NO PERSONAL LIABILITY. A commissioner of the

1 railroad commission, a railroad commission employee, a member of
2 the board of directors of the authority, or an employee of the
3 authority is not personally liable for a result of an exercise of a
4 duty or responsibility established under this subchapter.

5 Sec. 104.378. SEVERABILITY. After the date customer rate
6 relief bonds are issued under this subchapter, if any provision in
7 this title or portion of this title is held to be invalid or is
8 invalidated, superseded, replaced, repealed, or expires for any
9 reason, that occurrence does not affect the validity or
10 continuation of this subchapter or any other provision of this
11 title that is relevant to the issuance, administration, payment,
12 retirement, or refunding of customer rate relief bonds or to any
13 actions of a gas utility, its successors, an assignee, a collection
14 agent, or a financing party, which shall remain in full force and
15 effect.

16 SECTION 6. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2021.