

By: Parker

H.B. No. 3791

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Texas Electric Grid Security and Emergency Preparedness Advisory Council.

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

SECTION 1. Section 39.917, Utilities Code, is amended by amending Subsections (a), (b), (i), (j), and (k) and adding Subsections (a-1), (c-1), (i-1), (i-2), (i-3), (i-4), (l), and (m) to read as follows:

Sec. 39.917. TEXAS ELECTRIC GRID SECURITY AND EMERGENCY PREPAREDNESS ADVISORY COUNCIL. (a) The legislature finds that there is a public interest in mitigating the risk of cyber and physical attacks, as well as natural disasters and extreme weather, that may affect the reliability of electric systems operating in Texas. The Texas Electric Grid Security and Emergency Preparedness Advisory Council is established as an advisory body to facilitate the creation, aggregation, coordination, and dissemination of best security and emergency preparedness practices for the electric industry, including the generation, transmission, and delivery of electricity.

(a-1) In this section:

(1) "Critical infrastructure" means electric utility facilities located in ERCOT. The term does not include power generation facilities.

(2) "Cybersecurity" means the activity, process,

1 ability, capability, or state where information and communication
2 systems and the information contained in those systems are
3 protected from and defended against damage, unauthorized use,
4 modification, or exploitation.

5 (3) "Electromagnetic pulse threat" means an
6 electromagnetic pulse caused by intentional means, including an act
7 of terrorism.

8 (4) "Extreme weather emergency" means a period when:

9 (A) the previous day's highest temperature did
10 not exceed 32 degrees Fahrenheit and the temperature is forecasted
11 by the National Weather Service or any similar state or national
12 agency to remain at or below that temperature for the next 24 hours;
13 or

14 (B) the National Weather Service or any similar
15 state or national agency issues a heat advisory for any county in
16 the relevant service territory or has issued a heat advisory in the
17 last two days.

18 (5) "Geomagnetic disturbance" means an event caused by
19 the interaction of a cloud of charged particles produced by the
20 sun's solar storms and the earth's magnetic field.

21 (b) The Texas Electric Grid Security and Emergency
22 Preparedness Advisory Council is composed of 13 members as follows:

23 ~~(1) the commissioner designated as presiding officer~~
24 ~~of the commission under Section 12.052 or a representative~~
25 ~~designated by the commissioner,~~

26 ~~(2) the chief executive officer of the independent~~
27 ~~organization certified under Section 39.151 for the ERCOT power~~

1 ~~region or a representative designated by the chief executive~~
2 ~~officer; [and]~~

3 (31) the governor or a representative designated by
4 the governor; and

5 (42) three members described by each of the following
6 paragraphs with the governor, lieutenant governor, and speaker of
7 the house of representatives each appointing one of the three:

8 (A) members to study electromagnetic pulse
9 threats;

10 (B) members to study cybersecurity;

11 (C) members to study extreme weather
12 emergencies; and

13 (D) members to study terrorism and other threats
14 to homeland security in this state under Section 421.002,
15 Government Code.

16 (c-1) Each member of the council appointed under Subsection
17 (b) (4) must have professional experience or technical training in:

18 (1) cybersecurity;

19 (2) electromagnetic interference;

20 (3) electric power generation or transmission;

21 (4) electromagnetic pulse hardening;

22 (5) physical security and controls;

23 (6) space physics and weather;

24 (7) supervisory controls and data acquisition;

25 (8) emergency preparedness; or

26 (9) extreme weather preparedness.

27 (i) ~~On a request by the governor, the lieutenant governor,~~

1 ~~the chair of the house of representatives committee having~~
2 ~~jurisdiction over energy utility regulation, or the chair of the~~
3 ~~senate committee having jurisdiction over energy utility~~
4 ~~regulation, the council shall issue to the requestor~~
5 ~~recommendations~~ Not later than October 1, 2022, the council shall
6 submit to the governor, lieutenant governor, and speaker of the
7 house of representatives a report of its findings, including any
8 recommendations for legislation resulting from the findings,
9 regarding:

10 (1) the development of educational programs or
11 marketing materials to promote the development of a grid security
12 and emergency preparedness workforce;

13 (2) the development of grid security and emergency
14 preparedness best practices;

15 (3) preparation for events that threaten grid security
16 and reliability; ~~and~~

17 (4) amendments to the state emergency management plan
18 to ensure coordinated and adaptable response and recovery efforts
19 after events that threaten grid security and reliability; and

20 (5) appropriate measures and strategies to secure
21 critical infrastructure in ERCOT and the electric grid and
22 associated computer systems and networks against:

23 (A) electromagnetic pulses;

24 (B) natural threats, including solar flares and
25 extreme weather emergencies;

26 (C) geomagnetic disturbances; and

27 (D) cybersecurity threats and other attacks.

1 (i-1) In developing recommendations under Subsection
2 (i)(5), the council shall take into account the estimated costs
3 associated with the recommendations.

4 (i-2) In developing recommendations under Subsection
5 (i)(5), the council may use research and data on electromagnetic
6 pulse threats, extreme weather emergencies, and cybersecurity
7 gathered by the United States Department of Defense, the United
8 States Department of Energy, the United States Department of
9 Homeland Security, the National Weather Service, and the Electric
10 Power Research Institute.

11 (i-3) The council may share recommendations developed under
12 Subsection (i)(5) with any state agency it considers important to
13 the security and reliability of the electric grid or associated
14 computer systems or networks. To the extent allowed by law, a state
15 agency with which the council shares recommendations is encouraged
16 to implement any recommendations that the agency determines will
17 improve the security and emergency preparedness of the state's
18 electric grid or associated computer systems or networks.

19 (i-4) The Texas Electric Grid Security and Emergency
20 Preparedness Advisory Council shall, to the extent possible, begin
21 implementing any critical recommendations from the during the
22 interim period without further legislative action.

23 (j) The council may prepare ~~a~~ subsequent reports outlining
24 grid security response efforts that do not involve classified or
25 highly sensitive, company-specific information. If the council
26 prepares ~~the~~ a subsequent report, the council shall deliver the
27 report to the governor, lieutenant governor, and legislature on or

1 before the December 1 immediately preceding a regular session of
2 the legislature.

3 (k) The meetings of the council and information obtained or
4 created by the council are not subject to the requirements of
5 Chapter 551 or 552, Government Code. Each member of the council
6 shall sign a nondisclosure agreement stating that the member will
7 not disclose to the public any sensitive or identifiable
8 information related to grid security or emergency preparedness
9 measures or plans.

10 (l) This section is not intended to penalize electric
11 providers in this state. If deficiencies in the security or
12 emergency preparedness of the electric grid in ERCOT are determined
13 through the work of the council and the legislature, in
14 consultation with the governor, determines upgrades to the electric
15 grid are necessary, the legislature shall determine whether
16 upgrades will be funded by appropriating general revenue, through a
17 ratepayer cost recovery mechanism, or by a combination of those
18 methods.

19 (m) This section is not intended to prevent an electric
20 utility, municipally owned utility, or electric cooperative from
21 making prudent investments and reasonable and necessary
22 expenditures to secure the electric grid and seeking recovery of
23 associated costs as authorized by this code.

24 SECTION 2. Subchapter 2, Chapter 39, Utilities Code, is
25 amended by adding Section 39.918 to read as follows:

26 Sec. 39.918. INFORMATION RELATED TO GRID SECURITY AND
27 EMERGENCY PREPAREDNESS. The independent organization certified

1 under Section 39.151 shall collect and compile information related
2 to the security of the electric grid. The information is
3 confidential and is not subject to disclosure under Chapter 552,
4 Government Code.

5 SECTION 3. The governor, lieutenant governor, and speaker
6 of the house of representatives shall appoint members to the Texas
7 Electric Grid Security and Emergency Preparedness Advisory
8 Council, as required by this Act, as soon as practicable after the
9 effective date of this Act, but not later than the 90th day after
10 the effective date of this Act.

11 SECTION 4. As soon as practicable after the effective date
12 of this Act, but not later than December 31, 2021, the Texas
13 Electric Grid Security and Emergency Preparedness Advisory Council
14 shall hold its initial meeting.

15 SECTION 5. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2021.