

By: Schwertner, et al.

S.B. No. 2013

A BILL TO BE ENTITLED

AN ACT

relating to access to and the security of certain critical infrastructure.

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

SECTION 1. Section [113.001](#), Business & Commerce Code, as added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature, Regular Session, 2021, is amended by adding Subdivision (5) to read as follows:

(5) "Affiliate," with respect to a company entering into an agreement in which the critical infrastructure is electric grid equipment, has the meaning assigned by the protocols of the independent organization certified under Section [39.151](#), Utilities Code, for the ERCOT power region.

SECTION 2. Subchapter [F](#), Chapter [411](#), Government Code, is amended by adding Section 411.1183 to read as follows:

Sec. 411.1183. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: INDEPENDENT ORGANIZATION CERTIFIED UNDER UTILITIES CODE. (a) An independent organization certified under Section [39.151](#), Utilities Code, for security reasons is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who has or is seeking employment at or access to the independent organization's systems that affect the security of the electric grid.

(b) Criminal history record information obtained from the

1 department may not be released or disclosed except:

2 (1) as needed in protecting the security of the
3 electric grid;

4 (2) as authorized by a court order or a federal or
5 state law or order; or

6 (3) with the consent of the person who is the subject
7 of the criminal history record information.

8 SECTION 3. Section 2274.0101, Government Code, as added by
9 Chapter 975 (S.B. 2116), Acts of the 87th Legislature, Regular
10 Session, 2021, is amended by amending Subdivision (5) and adding
11 Subdivision (6) to read as follows:

12 (5) "Governmental entity" means a state agency, a [ex]
13 political subdivision, or an independent organization certified
14 under Section 39.151, Utilities Code, to perform a function
15 described by Section 39.151(a), Utilities Code [of this state].

16 (6) "Affiliate," with respect to a company entering
17 into an agreement in which the critical infrastructure is electric
18 grid equipment, has the meaning assigned by the protocols of the
19 independent organization certified under Section 39.151, Utilities
20 Code, for the ERCOT power region.

21 SECTION 4. Section 39.151, Utilities Code, is amended by
22 adding Subsection (g-7) to read as follows:

23 (g-7) To maintain certification as an independent
24 organization under this section, the organization must:

25 (1) identify all employee positions in the
26 organization that are critical to the security of the electric
27 grid; and

1 (2) before hiring a person for a position described by
2 Subdivision (1), obtain from the Department of Public Safety or a
3 private vendor criminal history record information relating to the
4 prospective employee and any other background information
5 considered necessary by the independent organization or required by
6 the commission.

7 SECTION 5. Subchapter H, Chapter 39, Utilities Code, is
8 amended by adding Section 39.360 to read as follows:

9 Sec. 39.360. TRANSACTIONS WITH CERTAIN FOREIGN-OWNED
10 COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE. (a) In this
11 section, "company" and "critical infrastructure" have the meanings
12 assigned by Section 113.001, Business & Commerce Code, as added by
13 Chapter 975 (S.B. 2116), Acts of the 87th Legislature, Regular
14 Session, 2021.

15 (b) An independent organization certified under Section
16 39.151 may not register a business entity or maintain the
17 registration of a business entity to operate in the power region for
18 which the independent organization is certified unless the business
19 entity attests that the entity complies with Chapter 113, Business
20 & Commerce Code, as added by Chapter 975 (S.B. 2116), Acts of the
21 87th Legislature, Regular Session, 2021.

22 (c) An independent organization certified under Section
23 39.151 shall require as a condition of operating in the power region
24 for which the independent organization is certified that a business
25 entity report to the independent organization the purchase of any
26 critical electric grid equipment or service from a company
27 described by Section 113.002(a)(2), Business & Commerce Code, as

1 added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature,
2 Regular Session, 2021.

3 (d) For each purchase reported by a business entity under
4 Subsection (c), the business entity shall submit an attestation to
5 the independent organization that the purchase will not result in
6 access to or control of its critical electric grid equipment by a
7 company described by Section 113.002(a)(2), Business & Commerce
8 Code, as added by Chapter 975 (S.B. 2116), Acts of the 87th
9 Legislature, Regular Session, 2021.

10 (e) Notwithstanding any other law, an independent
11 organization certified under Section 39.151 may immediately
12 suspend or terminate a company's registration or access to any of
13 the independent organization's systems if the independent
14 organization has a reasonable suspicion that the company meets any
15 of the criteria described by Section 2274.0102(a)(2), Government
16 Code, as added by Chapter 975 (S.B. 2116), Acts of the 87th
17 Legislature, Regular Session, 2021.

18 (f) A contractual provision that limits or contradicts
19 Subsection (e) is contrary to public policy and is unenforceable
20 and void.

21 (g) An independent organization certified under Section
22 39.151 may adopt guidelines or procedures relating to the
23 requirements in this section, including the qualification of
24 electric grid equipment or services as critical.

25 (h) The commission shall adopt any rules necessary to
26 administer this section or authorize an independent organization to
27 carry out a duty imposed by this section.

1 SECTION 6. The changes made to Chapter 113, Business &
2 Commerce Code, and Chapter 2274, Government Code, apply only to a
3 contract or agreement entered into on or after the effective date of
4 this Act.

5 SECTION 7. (a) For the purposes of Section 39.360(c),
6 Utilities Code, as added by this Act, a business entity operating in
7 a power region on the effective date of this Act shall report to the
8 independent organization certified for that power region under
9 Section 39.151, Utilities Code, any purchase made within the five
10 years preceding the effective date of this Act.

11 (b) For any past purchase reported by a business entity as
12 described by Subsection (a) of this section, the business entity
13 shall take reasonable and necessary actions to mitigate access to
14 or control of its critical electric grid equipment by a company
15 described by Section 113.002(a)(2), Business & Commerce Code, as
16 added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature,
17 Regular Session, 2021, and report those actions to the independent
18 organization.

19 SECTION 8. It is the intent of the 88th Legislature, Regular
20 Session, 2023, that the amendments made by this Act be harmonized
21 with another Act of the 88th Legislature, Regular Session, 2023,
22 relating to nonsubstantive additions to and corrections in enacted
23 codes.

24 SECTION 9. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2023.