

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 or any other background information maintained by the department that relates to

1 the person that is considered necessary by the independent
2 organization or required by the Public Utility Commission.

3 (b) Information obtained from the department under this
4 section may not be released or disclosed except:

5 (1) as needed in protecting the security of the
6 electric grid;

7 (2) as authorized by a court order or a federal or
8 state law or order; or

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

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

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

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

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

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

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

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

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

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

18 (b) An independent organization certified under Section
19 39.151 may not register a business entity or maintain the
20 registration of a business entity to operate in the power region for
21 which the independent organization is certified unless the business
22 entity attests that the entity complies with Chapter 113, Business
23 & Commerce Code, as added by Chapter 975 (S.B. 2116), Acts of the
24 87th Legislature, Regular Session, 2021.

25 (c) An independent organization certified under Section
26 39.151 shall require as a condition of operating in the power region
27 for which the independent organization is certified that a business

1 entity report to the independent organization the purchase of any
2 critical electric grid equipment or service from a company
3 described by Section 113.002(a)(2), Business & Commerce Code, as
4 added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature,
5 Regular Session, 2021.

6 (d) For each purchase reported by a business entity under
7 Subsection (c), the business entity shall submit an attestation to
8 the independent organization that the purchase will not result in
9 access to or control of its critical electric grid equipment by a
10 company described by Section 113.002(a)(2), Business & Commerce
11 Code, as added by Chapter 975 (S.B. 2116), Acts of the 87th
12 Legislature, Regular Session, 2021, excluding access specifically
13 allowed by the business entity for product warranty and support
14 purposes.

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

23 (f) A contractual provision that limits or contradicts
24 Subsection (e) is contrary to public policy and is unenforceable
25 and void.

26 (g) An independent organization certified under Section
27 39.151 may adopt guidelines or procedures relating to the

1 requirements in this section, including the qualification of
2 electric grid equipment or services as critical.

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

6 (i) The attorney general may conduct periodic audits of the
7 attestations required by Subsection (d) and may prioritize the
8 audits as necessary to protect critical infrastructure.

9 SECTION 6. The changes made by this Act to Chapter 113,
10 Business & Commerce Code, and Chapter 2274, Government Code, apply
11 only to a contract or agreement entered into on or after the
12 effective date of this Act.

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

19 (b) For any past purchase reported by a business entity as
20 described by Subsection (a) of this section, the business entity
21 shall take reasonable and necessary actions to mitigate access to
22 or control of its critical electric grid equipment by a company
23 described by Section 113.002(a)(2), Business & Commerce Code, as
24 added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature,
25 Regular Session, 2021, excluding access specifically allowed by the
26 business entity for product warranty and support purposes, and
27 report those actions to the independent organization.

1 SECTION 8. It is the intent of the 88th Legislature, Regular
2 Session, 2023, that the amendments made by this Act be harmonized
3 with another Act of the 88th Legislature, Regular Session, 2023,
4 relating to nonsubstantive additions to and corrections in enacted
5 codes.

6 SECTION 9. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2013 passed the Senate on April 4, 2023, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 2013 passed the House, with amendment, on May 23, 2023, by the following vote: Yeas 142, Nays 1, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor