

1-1 By: Schwertner, King, Kolkhorst S.B. No. 2013
 1-2 (In the Senate - Filed March 9, 2023; March 13, 2023, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 March 30, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 11, Nays 0; March 30, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8 | | | | |
| 1-9 | X | | | |
| 1-10 | X | | | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | X | | | |
| 1-16 | X | | | |
| 1-17 | X | | | |
| 1-18 | X | | | |
| 1-19 | X | | | |

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 2013 By: Schwertner

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to access to and the security of certain critical
 1-24 infrastructure.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 113.001, Business & Commerce Code, as
 1-27 added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature,
 1-28 Regular Session, 2021, is amended by adding Subdivision (5) to read
 1-29 as follows:

1-30 (5) "Affiliate," with respect to a company entering
 1-31 into an agreement in which the critical infrastructure is electric
 1-32 grid equipment, has the meaning assigned by the protocols of the
 1-33 independent organization certified under Section 39.151, Utilities
 1-34 Code, for the ERCOT power region.

1-35 SECTION 2. Subchapter F, Chapter 411, Government Code, is
 1-36 amended by adding Section 411.1183 to read as follows:

1-37 Sec. 411.1183. ACCESS TO CRIMINAL HISTORY RECORD
 1-38 INFORMATION: INDEPENDENT ORGANIZATION CERTIFIED UNDER UTILITIES
 1-39 CODE. (a) An independent organization certified under Section
 1-40 39.151, Utilities Code, for security reasons is entitled to obtain
 1-41 from the department criminal history record information maintained
 1-42 by the department that relates to a person who has or is seeking
 1-43 employment at or access to the independent organization's systems
 1-44 that affect the security of the electric grid.

1-45 (b) Criminal history record information obtained from the
 1-46 department may not be released or disclosed except:

1-47 (1) as needed in protecting the security of the
 1-48 electric grid;

1-49 (2) as authorized by a court order or a federal or
 1-50 state law or order; or

1-51 (3) with the consent of the person who is the subject
 1-52 of the criminal history record information.

1-53 SECTION 3. Section 2274.0101, Government Code, as added by
 1-54 Chapter 975 (S.B. 2116), Acts of the 87th Legislature, Regular
 1-55 Session, 2021, is amended by amending Subdivision (5) and adding
 1-56 Subdivision (6) to read as follows:

1-57 (5) "Governmental entity" means a state agency, ~~a~~ or
 1-58 political subdivision, or an independent organization certified
 1-59 under Section 39.151, Utilities Code, to perform a function
 1-60 described by Section 39.151(a), Utilities Code ~~[of this state]~~.

2-1 (6) "Affiliate," with respect to a company entering
2-2 into an agreement in which the critical infrastructure is electric
2-3 grid equipment, has the meaning assigned by the protocols of the
2-4 independent organization certified under Section 39.151, Utilities
2-5 Code, for the ERCOT power region.

2-6 SECTION 4. Section 39.151, Utilities Code, is amended by
2-7 adding Subsection (g-7) to read as follows:

2-8 (g-7) To maintain certification as an independent
2-9 organization under this section, the organization must:

2-10 (1) identify all employee positions in the
2-11 organization that are critical to the security of the electric
2-12 grid; and

2-13 (2) before hiring a person for a position described by
2-14 Subdivision (1), obtain from the Department of Public Safety or a
2-15 private vendor criminal history record information relating to the
2-16 prospective employee and any other background information
2-17 considered necessary by the independent organization or required by
2-18 the commission.

2-19 SECTION 5. Subchapter H, Chapter 39, Utilities Code, is
2-20 amended by adding Section 39.360 to read as follows:

2-21 Sec. 39.360. TRANSACTIONS WITH CERTAIN FOREIGN-OWNED
2-22 COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE. (a) In this
2-23 section, "company" and "critical infrastructure" have the meanings
2-24 assigned by Section 113.001, Business & Commerce Code, as added by
2-25 Chapter 975 (S.B. 2116), Acts of the 87th Legislature, Regular
2-26 Session, 2021.

2-27 (b) An independent organization certified under Section
2-28 39.151 may not register a business entity or maintain the
2-29 registration of a business entity to operate in the power region for
2-30 which the independent organization is certified unless the business
2-31 entity attests that the entity complies with Chapter 113, Business
2-32 & Commerce Code, as added by Chapter 975 (S.B. 2116), Acts of the
2-33 87th Legislature, Regular Session, 2021.

2-34 (c) An independent organization certified under Section
2-35 39.151 shall require as a condition of operating in the power region
2-36 for which the independent organization is certified that a business
2-37 entity report to the independent organization the purchase of any
2-38 critical electric grid equipment or service from a company
2-39 described by Section 113.002(a)(2), Business & Commerce Code, as
2-40 added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature,
2-41 Regular Session, 2021.

2-42 (d) For each purchase reported by a business entity under
2-43 Subsection (c), the business entity shall submit an attestation to
2-44 the independent organization that the purchase will not result in
2-45 access to or control of its critical electric grid equipment by a
2-46 company described by Section 113.002(a)(2), Business & Commerce
2-47 Code, as added by Chapter 975 (S.B. 2116), Acts of the 87th
2-48 Legislature, Regular Session, 2021.

2-49 (e) Notwithstanding any other law, an independent
2-50 organization certified under Section 39.151 may immediately
2-51 suspend or terminate a company's registration or access to any of
2-52 the independent organization's systems if the independent
2-53 organization has a reasonable suspicion that the company meets any
2-54 of the criteria described by Section 2274.0102(a)(2), Government
2-55 Code, as added by Chapter 975 (S.B. 2116), Acts of the 87th
2-56 Legislature, Regular Session, 2021.

2-57 (f) A contractual provision that limits or contradicts
2-58 Subsection (e) is contrary to public policy and is unenforceable
2-59 and void.

2-60 (g) An independent organization certified under Section
2-61 39.151 may adopt guidelines or procedures relating to the
2-62 requirements in this section, including the qualification of
2-63 electric grid equipment or services as critical.

2-64 (h) The commission shall adopt any rules necessary to
2-65 administer this section or authorize an independent organization to
2-66 carry out a duty imposed by this section.

2-67 SECTION 6. The changes made to Chapter 113, Business &
2-68 Commerce Code, and Chapter 2274, Government Code, apply only to a
2-69 contract or agreement entered into on or after the effective date of

3-1 this Act.

3-2 SECTION 7. (a) For the purposes of Section 39.360(c),
3-3 Utilities Code, as added by this Act, a business entity operating in
3-4 a power region on the effective date of this Act shall report to the
3-5 independent organization certified for that power region under
3-6 Section 39.151, Utilities Code, any purchase made within the five
3-7 years preceding the effective date of this Act.

3-8 (b) For any past purchase reported by a business entity as
3-9 described by Subsection (a) of this section, the business entity
3-10 shall take reasonable and necessary actions to mitigate access to
3-11 or control of its critical electric grid equipment by a company
3-12 described by Section 113.002(a)(2), Business & Commerce Code, as
3-13 added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature,
3-14 Regular Session, 2021, and report those actions to the independent
3-15 organization.

3-16 SECTION 8. It is the intent of the 88th Legislature, Regular
3-17 Session, 2023, that the amendments made by this Act be harmonized
3-18 with another Act of the 88th Legislature, Regular Session, 2023,
3-19 relating to nonsubstantive additions to and corrections in enacted
3-20 codes.

3-21 SECTION 9. This Act takes effect immediately if it receives
3-22 a vote of two-thirds of all the members elected to each house, as
3-23 provided by Section 39, Article III, Texas Constitution. If this
3-24 Act does not receive the vote necessary for immediate effect, this
3-25 Act takes effect September 1, 2023.

3-26

* * * * *