

## **BILL ANALYSIS**

C.S.H.B. 2305  
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State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently many retail electric providers require a customer to provide a deposit to establish services to the customer's residence or place of business. The deposit is held by the provider and then is either returned to the customer or credited to the customer's last bill upon termination of service.

Last summer, the collapse of four Texas retail electric companies affected more than 40,000 customers. When these providers went out of business, many people waited extended amounts of time and to this day many of those customers have not received their deposits back from the providers that went out of business.

C.S.H.B. 2305 requires the Public Utility Commission of Texas to set up a deposit fund outside of the state treasury for the purpose of holding customer deposits from providers. This will protect customer's deposits and guarantee that all customers who have a right to receive their whole deposit or a portion of the deposit actually receive it. The bill sets up an interest fund to receive accrued interest from the deposit fund, to be used to offset the surcharges for the deployment of advanced metering for low income customers and potentially also to support system benefit fund programs.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTIONS 2 and 3 of this bill.

### **ANALYSIS**

C.S.H.B. 2305 amends the Utilities Code to make permanent the requirement that the Public Utilities Commission of Texas (PUC) ensure that retail customer protections are established, revising existing law that required the PUC to ensure such protections before customer choice began on January 1, 2002. The bill adds to such protections, requiring the PUC to ensure that retail customer protections are established that entitle a customer to a refund of a security deposit or other money owed to the customer on the withdrawal of the customer's retail electric provider from competition in Texas.

C.S.H.B. 2305 requires a retail electric provider to remit to the PUC each security deposit that the provider receives from a customer. The bill authorizes the PUC to require a provider to submit a report regarding remissions or returns of security deposits to customers. The bill requires a submitted report to contain any information the PUC requires to evaluate a provider's compliance with provisions relating to deposits. The bill creates a customer deposit fund and a customer deposit interest fund, as trust funds held outside the state treasury by a financial institution eligible to be a state depository that is selected by the PUC. The bill provides that money in the deposit fund be used only to repay a security deposit to a customer of a retail electric provider. The bill requires the PUC to deposit each remitted customer deposit to the credit of deposit fund, to ensure that interest earned on money in the deposit fund is credited to

the interest fund, to remit to a retail electric provider an amount equal to the amount of a customer's security deposit when the retail electric provider demonstrates that the security deposit has been returned to the customer, minus any deductions for payments due, and to conduct an annual review of the customer deposit fund. The bill requires the PUC quarterly to publish a report of customer deposit fund deposits, disbursements, and earnings. The bill requires the PUC to adopt implementation rules. The bill requires the rules, at a minimum, to establish the procedures by which a retail electric provider is required to remit security deposits, the information that must be contained in the report that is required of the provider, a schedule for the return of a customer's security deposit by a provider and for the reimbursement of a retail electric provider from the fund for returned deposits, minus any deductions for payments due, as well as procedures for the annual review.

C.S.H.B. 2305 allows the money in the interest fund to be used only to reimburse a retail electric provider that credits or otherwise deducts the amount of a nonbypassable surcharge relating to metering from the bill of a low-income residential customer. The bill establishes an exception, allowing the PUC, if a nonbypassable change expires or the amount to be recovered from metering-related costs is included in the base rates of an electric utility or transmission and distribution utility, to use money in the interest fund for assistance to low-income electric customers under the system benefit fund.

C.S.H.B. 2305 requires the PUC, by rule, to establish criteria for determining a retail electric provider's eligibility to receive reimbursement for a credit or deduction and to require each retail electric provider to apply the same credit or deduction to any rate plan under which a low-income electric customer is receiving electric service. The bill authorizes the PUC to require a retail electric provider to provide any information required by the PUC to evaluate the retail electric provider's compliance with provisions regarding the interest fund. The bill requires the PUC quarterly to publish a report of the customer deposit interest fund's revenues and disbursements.

C.S.H.B. 2305 requires the PUC to adopt rules under the bill not later than December 1, 2009.

#### **EFFECTIVE DATE**

September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2305 makes the requirement that the PUC ensure retail customer protections an ongoing requirement, whereas the original, by leaving existing law in place, limited the requirement to a one-time requirement to occur before customer choice began on January 1, 2002. The substitute, in the provision requiring the PUC to ensure that a customer is entitled to a refund of a deposit, changes the refund from any deposit or other money in the original to a security deposit or other money in the substitute and refers to the withdrawal of a provider from competition in Texas, rather than exit of a provider from the Texas market. The substitute differs from the original by not excluding interest from the refund entitlement, as in the original.

C.S.H.B. 2305 differs from the original by directly establishing the customer deposit fund, whereas the original requires the PUC to require retail electric providers to establish the fund. The substitute differs from the original by requiring the PUC to select the eligible financial institution, whereas the original does not specify how the institution is chosen.

C.S.H.B. 2305 expressly requires the PUC to remit to a retail electric provider an amount equal to the provider's return of a customer's security deposit, minus any deductions for payments due, whereas the original contains no such express provision.

C.S.H.B. 2305 differs from the original by authorizing the PUC to require providers to submit a report regarding remissions of security deposits for deposit to the fund or returns of deposits to customers, whereas the original requires the provider to file reports as required by PUC rule and requires the PUC to adopt, by rule, reporting requirements, schedules, and review procedures. The substitute requires the retail electric provider's report to contain any information the PUC requires to evaluate the provider's compliance, whereas the original authorizes the PUC to require the provider to provide additional information as necessary to assess contributions to and disbursements from the deposit fund and the interest fund. The substitute differs from the original by requiring the PUC quarterly to publish a report of deposits, disbursements, and earnings, whereas the original requires the PUC to issue quarterly reports of revenues to and expenditures from the deposit fund and the interest fund.

C.S.H.B. 2305 differs from the original by setting forth specific minimum requirements for the rules the PUC is required to adopt to implement the deposit fund, whereas the original requires the PUC to adopt and enforce rules to establish the fund and for reporting requirements, payment schedules, and review procedures.

C.S.H.B. 2305 differs from the original by having the PUC select the outside financial institution to hold the customer deposit interest fund, whereas the original refers to it a separate fund, without specifics.

C.S.H.B. 2305 omits a provision present in the original stating that all records and reports related to the low-income residential customer surcharge waiver are subject to audit on the PUC request.

C.S.H.B. 2305 adds a provision not in the original authorizing the PUC to require a provider to provide any information to evaluate the provider's compliance with provisions relating to the interest fund.

C.S.H.B. 2305 adds a provision not in the original requiring the PUC to adopt rules not later than December 1, 2009. The substitute adds a transition provision.