

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 27, 2009

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: SB1492** by Williams (Relating to the delay of retail electric competition in the areas of the state covered by the Southeastern Electric Reliability Council and to the recovery of certain transmission costs by electric utilities in those areas and to the provision of power during a natural disaster or declared emergency.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Utilities Code to subject electric utilities operating in areas in Texas in the Southeastern Electric Reliability Council (SERC) to the provisions in Section 36.209 that allow a utility to recover certain transmission costs on an annual basis. The bill would require the Public Utility Commission (PUC) to ensure that a competitive generation tariff is not implemented in a manner that harms the sustainability or competitiveness of manufacturers that choose not to take advantage of competitive generation. The bill would prohibit the PUC from issuing a decision relating to a competitive generation tariff that is contrary to an applicable decision, rule, or policy statement of a federal regulatory agency having jurisdiction.

The bill would authorize the PUC, after the governor declares a natural disaster or other emergency, to require an electric utility, municipally owned utility, electric cooperative, qualifying facility, power generation company, exempt wholesale generator, or power marketer to sell electricity to an electric utility, municipally owned utility, or electric cooperative that is unable to supply power to meet customer demand due to the disaster or emergency. The bill would authorize the PUC to order interconnection between utilities, and if it does not order the sale of electricity, the PUC would be required to submit a report to the legislature indicating the reasons for not doing so.

The bill would require a utility in SERC that is subject to cost of service regulation and that has a transition to competition plan pending at the Commission to withdraw the plan and cease all related activities. The bill would require the PUC to ensure that the provisions of Sections 37.056(4)(d) and (e) in any awarding of a certificate of convenience and necessity or any allowing of cost recovery for purchased power.

The bill would require the PUC to conduct and complete a study by November 1, 2009 that evaluates the locations in the state most likely to experience a natural disaster or emergency, the ability of each entity to comply with orders to sell electricity or for interconnection in case of a natural disaster or emergency, and any steps entities should take to be able to comply with the orders.

The bill would require the PUC to conduct a minor rulemaking to align existing rules with the provisions of the bill. The PUC anticipates any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

### Local Government Impact

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 473 Public Utility Commission of Texas

**LBB Staff:** JOB, KJG, ES, JRO