

BILL ANALYSIS

C.S.H.B. 519
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The system benefit fund was established as a critical part of legislation to deregulate electricity markets in Texas. The purpose of the fund was to help ease transition to the deregulated market, create a bill payment assistance program for low-income customers through rate discount and weatherization funds, and fund efforts to educate customers and promote competition. At its peak, the fund was successful in helping hundreds of thousands of Texans afford electricity. After enrollment guidelines were tightened, nearly half of low-income customers were eliminated from the program. The majority of funds collected by the nonbypassable fee were not appropriated in some of the last several legislative sessions, leaving a considerable amount of funds in this account and that have been used to certify the budget. Interested parties report that currently there is a large amount of money available in the fund. With the state's current economic situation already stretching budgets thin, hundreds of thousands of low-income Texans, including seniors living on fixed incomes, will continue to face serious additional economic hardship because of the cost of electricity.

C.S.H.B. 519 seeks to address this issue by revising the financing of the system benefit fund, limiting its allowable uses, creating a new low-income electric customers program fund outside the treasury for funding assistance for an expanded group of customers for an expanded period of time, and providing for a September 1, 2013, effective date to avoid adversely affecting current state budget negotiations.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTIONS 1, 3, and 8 of this bill.

ANALYSIS

C.S.H.B. 519 amends the Utilities Code to require the Public Utility Commission of Texas (PUC) to adopt and enforce rules requiring transmission and distribution utilities to establish a low-income electric customers program fund under PUC oversight. The bill requires PUC rules to provide for the fund to be established as a trust fund outside the state treasury, for the fund to be held by an administrator selected by the transmission and distribution utilities in accordance with standards adopted by the PUC, and for any interest earned on money in the fund to be credited to the fund. The bill specifies that the administrator serves as a trustee of the fund and is authorized to make any payments or reimbursements from the fund to further the low-income electric customer programs.

C.S.H.B. 519 requires the PUC rules to prescribe the maximum percentage of money available in the fund that may be used for the expenses of administering the fund and for annual independent auditing of the fund and expenditures and other transactions related to the fund. The bill authorizes the PUC or its agents to examine at any time any records related to the fund or investigate any fund-related expenditures or expenses. The bill requires the administrator and each transmission and distribution utility to fully cooperate with any investigation regarding the

fund conducted by the PUC or its agents.

C.S.H.B. 519 requires the PUC, by rule, to impose a nonbypassable low-income electric customers program fund fee to be set by the commission in an amount not to exceed 63 cents per megawatt hour, allocated to customers based on the amount of kilowatt hours used, and requires the PUC to provide for a nonbypassable fee in the same amount to be imposed on the retail electric customers of a municipally owned utility or electric cooperative beginning on the first day of the sixth month preceding the date on which the utility or cooperative implements customer choice. The bill requires PUC rules relating to the low-income electric customers program fund to provide that the program fund fees collected for low-income electric customer programs are collected through the rates of the transmission and distribution service providers and deposited into the low-income electric customers program fund.

C.S.H.B. 519 authorizes money in the low-income electric customers program fund to be spent only for the following regulatory purposes and requires such money to be allocated as follows:

- not more than 85 percent of the money available in the fund must be used to provide a reduced rate that results in a discount for low-income electric customers that is equal to 10 to 20 percent of the rate for the standard retail service package approved by the PUC under provisions of law relating to the provider of last resort;
- not more than 4 percent of the money available in the fund must be used for bill payment assistance for electric customers designated under PUC rules as critical care residential customers; and
- not less than 11 percent of the money available in the fund must be used to finance low-income electric customer weatherization programs to be operated by a statewide network of federal weatherization program providers under federal weatherization program guidelines.

C.S.H.B. 519 removes the requirement that the PUC adopt rules regarding programs to assist low-income electric customers on the introduction of customer choice and related provisions. The bill removes the prohibition against an electric company reducing programs already offered to assist low-income electric customers until customer choice is introduced in the power region.

C.S.H.B. 519, in a provision requiring the PUC to adopt rules for a retail electric provider to determine a reduced rate for eligible customers to be discounted off the standard retail service package under provisions relating to a provider of last resort, requires the PUC to require a retail electric provider to apply the same reduction to any rate plan under which an eligible low-income electric customer is receiving service. The bill removes a provision allowing the retail electric provider, as an alternative to determining the reduced rate by discounting off the standard retail package, to determine the reduced rate by discounting off the price to beat. The bill specifies that the reduced rate for a retail electric provider must result in a discount available during each month of the year that is equal to at least 10 percent and up to 20 percent of the rate for the standard retail service package approved by the PUC under provisions of law relating to the provider of last resort. The bill removes the specification the reduced rate must result in a total charge that is at least 10 percent and up to 20 percent lower than the amount the customer would otherwise be charged.

C.S.H.B. 519 requires, rather than authorizes, the PUC, to the extent the low-income electric customers program fund is insufficient to pay for the initial 10 percent discount, to increase the fee to an amount not to exceed the maximum amount prescribed by law. The bill requires, rather than authorizes, the PUC to reduce the discount to an amount that is less than 10 percent of the rate of the standard retail service package if the fee is set at the maximum amount and the PUC determines that revenues anticipated to be due for deposit to the fund are insufficient to pay for the 10 percent discount. The bill requires the PUC to provide for a discount of at least 10 percent for any period for which the PUC determines that revenues anticipated to be due for deposit to the fund are sufficient to pay for the discount.

C.S.H.B. 519 requires rules adopted by the PUC relating to the low-income electric customers program fund to provide that an electric customer eligible for the reduced retail electric provider rates determined by the PUC is also eligible for reduced rates for telecommunications services offered for low-income customers and, conversely, a customer eligible for reduced rates for telecommunications services is also eligible for the reduced electric rates offered to low-income electric customers.

C.S.H.B. 519 requires the PUC to adopt rules governing the bill payment assistance program for electric customers designated under PUC rules as critical care residential customers, as established by the bill, and requires such rules to provide that such a customer is eligible to receive the assistance only if the assistance is necessary to prevent the disconnection of service for the customer. The bill removes the specification that the disconnection of service is for nonpayment of bills and that an eligible household is one in which the electric customer is seriously ill or is a disabled low-income person or in which there is at least one such person. The bill requires money distributed to a retail electric provider for bill payment assistance to be proportional to the number of critical care residential customers the provider serves for whom eligibility is established under PUC rules. The bill redefines "low-income electric customer" to make nonsubstantive changes.

C.S.H.B. 519, in a provision of law relating to the purposes for which money in the system benefit fund is appropriated, removes from this provision the option of appropriating money in the account for purposes provided by other law not included in the provisions directly relating to the fund. The bill, in a provision relating to a nonbypassable fee set by the PUC to finance the system benefit fund, reduces the fee from 65 cents per megawatt hour to two cents per megawatt hour. The bill requires the PUC to adopt rules providing for reimbursements from appropriated system benefit fund money for activities authorized for funding. The bill removes funding for certain low-income electric customer programs from the list of regulatory purposes for which the appropriation of money in the system benefit fund is authorized and removes a provision imposing an order of priority on the list of regulatory purposes.

C.S.H.B. 519 replaces references to a targeted low-income energy efficiency program with references to a weatherization program in a provision relating to a targeted low-income energy efficiency program that each unbundled transmission and distribution utility is required to include in its energy efficiency plan under the state's goal for energy efficiency. The bill includes its provisions relating to the low-income electric customers program fund among the provisions of law not subject to being inapplicable to a municipally owned utility or an electric cooperative under restructuring of the electric utility industry. The bill excepts its provisions relating to the low-income customers program fund from the applicability of provisions of law governing the transition to and the establishment of a fully competitive electric power industry for municipally owned utilities and electric cooperatives. The bill expands the list of purposes for which the PUC has jurisdiction over municipally owned utilities to include collection of the nonbypassable fees established by the bill's provisions.

C.S.H.B. 519 requires the PUC, effective September 1, 2011, to adopt or revise, as necessary to implement the bill's provisions, rules governing the system benefit fund and the low-income electric customers program fund not later than September 1, 2012. The bill makes conforming and nonsubstantive changes.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 519 differs from the original by capping the amount of the nonbypassable low-income

electric customers program fund fee at 63 cents per megawatt hour, whereas the original caps the amount of the fee at 65 cents per megawatt hour.

C.S.H.B. 519 differs from the original by requiring the use of not more than 85 percent of the money available in the low-income electric customers program fund to provide a reduced rate that results in a discount for low-income electric customers that is equal to 10 to 20 percent of the rate for the standard retail service package approved by the Public Utility Commission of Texas (PUC) under provisions of law relating to the provider of last resort, whereas the original requires the use of not more than 85 percent of the money available in that fund to provide a 10 to 20 percent reduced rate for low-income households over a 12 month period. The substitute differs from the original by requiring the use of not more than 4 percent of money available in the fund for bill payment assistance for electric customers designated under PUC rules as critical care residential customers, rather than for customers on life support with total household income not to exceed 400 percent of the federal poverty guidelines, as in the original.

C.S.H.B. 519 differs from the original by removing a statutory provision retained in the original prohibiting an electric utility from reducing programs already offered to assist low-income electric customers until customer choice is introduced in the power region. The substitute omits provisions included in the original prohibiting a municipally owned utility or electric cooperative that has not implemented customer choice from reducing such existing programs and prohibiting a retail electric provider or electric utility from reducing programs offered to assist low-income electric customers on or after September 11, 2013, except as provided by PUC rules.

C.S.H.B. 519 differs from the original by requiring the reduced rate for a retail electric provider to result in a discount available during each month of the year that is equal to at least 10 and up to 20 percent of the rate for the standard retail service package approved by the PUC under provisions of law relating to the provider of last resort, whereas the original requires the reduced rate to result in a total charge for 12 months of service that is at least 10 and up to 20 percent lower than the amount the customer would otherwise be charged for 12 months of service.

C.S.H.B. 519 differs from the original by requiring the PUC to increase the low-income electric customers program fund fee or reduce the discount, as appropriate, if the revenues anticipated to be due for deposit to the fund are insufficient to pay for the initial 10 percent discount, whereas the original authorizes the PUC to impose such an increase or reduction. The substitute contains a provision not included in the original requiring the PUC to provide for a discount of at least 10 percent for any period for which the PUC determines that revenues anticipated to be due for deposit to the fund are sufficient to pay for the discount.

C.S.H.B. 519 differs from the original by requiring the PUC to adopt rules governing a bill payment assistance program for critical care residential customers, rather than for customers on life support with total household income not exceeding 400 percent of the federal poverty guidelines as in the original. The substitute differs from the original, in its eligibility requirements for the bill payment assistance program, by removing statutory language specifying that the disconnection of service is for nonpayment of bills, whereas the original retains that language.

C.S.H.B. 519 contains a provision not included in the original requiring money distributed to a retail electric provider for bill payment assistance to be proportional to the number of critical care residential customers the provider serves for whom eligibility is established under PUC rules. The substitute differs from the original by retaining a statutory provision removed in the original defining "low-income electric customer" and by making nonsubstantive changes to that definition.

C.S.H.B. 519 differs from the original by setting a September 1, 2012, deadline for the PUC to adopt or revise rules governing the system benefit fund and the low-income electric customers program fund, whereas the original sets a deadline of January 1, 2012. The substitute differs

from the original by making the requirement for the PUC to adopt or revise such rules effective September 1, 2011, rather than September 1, 2013, as in the original. The substitute differs from the original in nonsubstantive ways.