

## **BILL ANALYSIS**

C.S.H.B. 966  
By: Murphy  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Restructuring of the electric industry in Texas, during which integrated utilities were unbundled and the Public Utility Commission (PUC) established rates for the transmission and distribution of utilities, occurred at a time when a utility's annual cost for pension and retiree health care benefits was relatively low. Since that time, such expenses have grown more volatile in response to the investment market, growing obligations resulting from the increase in life expectancy, and increases in the expenses of health care.

The Texas Legislature, in a recent legislative session, enacted legislation allowing an electric utility to establish one or more reserve accounts for expenses for pensions and other postemployment benefits. These reserve accounts, once established, allow for the variation in costs to be captured and reviewed by the PUC for inclusion in a utility's rates during the subsequent rate proceedings, enabling an electric utility to manage the challenges of volatile and escalating pension and retiree health care expenses. That legislation also helped clarify the treatment of pension and retiree health care costs for legacy employees that arose as proper expenses.

C.S.H.B. 966 seeks to bring gas utility provisions in line with the current statutory provisions for electric utilities by providing for the establishment of one or more gas utility reserve accounts for expenses for pensions and other postemployment benefits. Such accounts, like those established by electric utilities, will allow for the variation in costs to be captured and reviewed by the regulatory body for inclusion in rates during subsequent rate proceedings.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 966 amends the Utilities Code to require a regulatory authority, in establishing a gas utility's rates, to allow recovery of the gas utility's costs of pensions and other postemployment benefits, as determined by actuarial or other similar studies in accordance with generally accepted accounting principles, in amounts the regulatory authority finds reasonable and necessary. The bill requires a gas utility, if the utility establishes one or more reserve accounts for the purpose of tracking changes in the costs of pensions and other postemployment benefits, to record periodically in a reserve account any difference between the annual amount of pension and other postemployment benefits approved and included in the utility's then current rates or, if that annual amount cannot be determined from the regulatory authority's order, the amount recorded for pension and other postemployment benefits under generally accepted accounting principles during the first year that rates from the gas utility's last general rate proceeding were in effect and the annual amount of costs of pensions and other postemployment benefits as determined by actuarial or other similar studies that would otherwise be recorded by the gas utility were this provision not applicable.

C.S.H.B 966 requires a gas utility to establish separate reserve accounts for pensions and for other postemployment benefits and to apply the same methodology to allocate pension and other postemployment benefits between capital and expense as in the gas utility's last rate case. The bill establishes that a surplus in a reserve account exists if the annual amount of pension and other postemployment benefits approved and included in the utility's then current rates or recorded during the first year that rates from the last general rate proceeding were in effect is greater than the annual amount of costs of pension and other postemployment benefits as determined by actuarial or other similar studies that otherwise would be recorded by the gas utility and that a shortage exists if the annual amount approved or recorded is less than the amount determined by such actuarial or other similar studies.

C.S.H.B. 966 requires the regulatory authority at a subsequent general rate proceeding, if the gas utility establishes reserve accounts for the costs of pensions and other postemployment benefits, to review the amounts recorded to each reserve account to determine whether the amounts are reasonable and necessary, to determine whether each reserve account has a surplus or shortage, and to subtract any surplus from or add any shortage to the gas utility's rate base with the surplus or shortage amortized over a reasonable time. The bill makes its provisions relating to the establishment of reserve accounts, the determination of account surpluses or shortages, and regulatory authority review of such accounts applicable only in relation to a reserve account established by a gas utility on or after January 1, 2012.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

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

C.S.H.B. 966 differs from the original by requiring a regulatory authority, in establishing a gas utility's rates, to allow recovery of the utility's costs of pensions and other postemployment benefits, whereas this original requires a regulatory authority, in establishing these rates, to allow expenses for pensions and other postemployment benefits.

C.S.H.B. 966 differs from the original, in provisions relating to a gas utility's establishment of one or more reserve accounts, by specifying the establishment of such reserve accounts for the purpose of tracking changes in the costs of pensions and other postemployment benefits, whereas the original specifies the establishment of such accounts for expenses for pension and other postemployment benefits.

C.S.H.B. 966 differs from the original by requiring a gas utility that establishes one or more reserve accounts to record periodically in an account any difference between the annual amount of pension and other postemployment benefits approved and included as an operating expense in the utility's then current rates, if the amount can be determined, and the annual amount of costs of pensions and other postemployment benefits that otherwise would be recorded by the gas utility were this provision not applicable, whereas the original requires such a gas utility to record periodically in the reserve account any difference between the annual amount of pension and other postemployment benefits approved as an operating expense in the utility's then current rates, if the amount can be determined, and the annual amount of pension and other postemployment benefits that are chargeable to the gas utility's operating expense.

C.S.H.B. 966 contains a provision not included in the original requiring a gas utility to establish separate reserve accounts for pensions and for other postemployment benefits and to apply the same methodology to allocate pension and other postemployment benefits between capital and expense as in the gas utility's last rate case.

C.S.H.B. 966 differs from the original in conforming and nonsubstantive ways.