

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 20, 2011

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

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

IN RE: SB661 by Nichols (Relating to the continuation and functions, as applicable, of the Electric Reliability Council of Texas, the Office of Public Utility Counsel, and the Public Utility Commission of Texas and to the transfer of certain functions from the Texas Commission on Environmental Quality to the Public Utility Commission of Texas; imposing administrative penalties.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Utilities Code relating to the continuation and operation of the Public Utility Commission (PUC) and the Office of Public Utility Counsel (OPUC). PUC and OPUC are subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the Legislature. The bill would continue PUC and OPUC for 12 years and would take effect September 1, 2011.

The bill would increase the penalty for a violation of a reliability standard to \$100,000 and specify that each day a violation continues or occurs is a separate violation. The bill would allow the PUC to issue cease and desist orders for certain violations. The bill would allow the PUC to order the disgorgement of excess revenues for certain violations. The bill would require the underground placement of certain segments of a transmission line intended to serve a competitive renewable energy zone. The bill would define and make provisions for the interconnection of distributed renewable energy generation. The bill would make certain restrictions on solar energy devices void. The bill would provide that telecommunications providers or telecommunications utilities are not required to publish a printed telephone directory if certain requirements are met. The bill would create an expedited process for certain landowners to be released from a certificate of convenience and necessity (CCN).

The bill would require the PUC to review and approve the budget, performance measures, and proposals for obtaining debt financing or re-financing of debt of an entity certified under section 39.151 of the Utilities Code. The Electric Reliability Council of Texas (ERCOT) is certified under this section. The bill would also allow the PUC to set a fee range for the system administration fee and review the fee quarterly to ensure that the revenues generated closely match the revenue necessary to fund ERCOT's budget. The bill would restructure ERCOT's Board of Directors and require that the board establish and implement a formal process for adopting new protocols or revisions to existing protocols.

The bill would transfer responsibility for regulating water and wastewater rates and services from the Texas Commission on Environmental Quality (TCEQ) to PUC. The bill would require the PUC and TCEQ to enter into a memorandum of understanding to identify in detail the applicable powers and duties that are transferred and establish a plan for the execution of the transfer.

The bill would grant the OPUC the authority to represent the interests of residential and small commercial consumers in water and wastewater proceedings. The bill would require that the OPUC, the Office of Public Interest Counsel (OPIC) and TCEQ to enter into a memorandum of understanding to identify in detail the applicable powers and duties that are transferred and establish a plan for the execution of the transfer.

Based on the analysis of the Sunset Advisory Commission, PUC, TCEQ, the Office of the Attorney General, the State Office of Administrative Hearings and OPUC it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. This analysis assumes the transfer of \$1,468,435 each year and 20.0 full-time-equivalent positions (FTEs) from TCEQ to PUC to transfer the authority outlined in the bill. This analysis also assumes that 1.0 FTEs and \$80,847 each year would be transferred from OPIC to OPUC along with the authority to represent the interests of residential and small commercial customers provided by the bill. This analysis also assumes the transfer of \$260,000 each year to the PUC from TCEQ to cover the cost of the contract with the State Office of Administrative Hearings for water utility case hearings.

Local Government Impact

A local government which holds a CCN could be negatively impacted if landowners would be released from such a CCN without cause, especially if: multiple areas would be removed from a CCN; the local government would have already made expenditures to provide services to the area being released; and if the local government was anticipating to recoup such costs through revenues from providing service. Although some of the costs of losing areas from a CNN could be recouped, because the Water Code specifies that compensation may be awarded to a CCN holder if an area is removed from a CCN, this compensation would likely be limited and uncertain, because the award of compensation would not occur until another retail public utility would propose to serve the area.

The cost to a local government resulting from passage of the bill would depend on the number of areas being removed from a CNN service area, the amount of expenditures the local government would have made to provide service to these areas, the amount of revenue the local government anticipated to collect to recoup such costs, and whether another CCN would propose to serve the areas being removed.

Source Agencies: 116 Sunset Advisory Commission, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

LBB Staff: JOB, KJG, MW, RAN