

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 7, 2011

TO: Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

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 an administrative penalty.), **Committee Report 1st 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 removes the requirement that the PUC approve certain customer specific contracts and would require PUC to provide for the renewal of registrations for certain telecommunications providers.

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 to increase representation by independent members 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 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, the Public Utility Commission, the Texas Commission on Environmental Quality, the Office of the Attorney General, the State Office of Administrative Hearings and the Office of Public Utility Counsel 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 and 20.0 FTEs from TCEQ to PUC to transfer the authority outlined in the bill. This analysis also assumes that 1.0 FTEs

and \$87,847 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

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

Source Agencies: 116 Sunset Advisory Commission, 302 Office of the Attorney General, 360 State Office of Administrative Hearings, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel, 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

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