

RESOLUTION ANALYSIS

C.S.H.J.R. 2
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Following Winter Storm Uri, which paralyzed the state's power grid in February of this year leaving millions of Texans without power during record cold temperatures, there have been calls for the state to take action to address the reliability and resiliency of the state's energy infrastructure and ensure there will be adequate energy capacity during times of peak energy demand in the future. C.S.H.J.R. 2 seeks to answer these calls by proposing an amendment to the Texas Constitution to create the State Utilities Reliability Fund and the State Utilities Reliability Revenue Fund to provide financial support for projects that enhance the reliability and resiliency of water, electric, and natural gas utilities, broadband providers, and power generation resources in Texas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this resolution does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.J.R. 2 proposes an amendment to the Texas Constitution to create the state utilities reliability fund and the state utilities reliability revenue fund as special funds in the state treasury outside the general revenue fund to be administered, without further appropriation, by the Texas Water Development Board (TWDB).

State Utilities Reliability Fund (SURF)

C.S.H.J.R. 2 sets out the composition of the SURF and restricts the use of the SURF to supporting projects to enhance the reliability and resiliency of water, electric, and natural gas utilities, broadband providers, and power generation resources in Texas, in accordance with general law. Separate accounts may be established in the SURF as necessary or convenient to administer the fund or the supported projects and the financial assistance may be provided directly to private entities or to utilities owned by public or private entities as provided by general law.

C.S.H.J.R. 2 authorizes the legislature by general law to authorize the TWDB to use the SURF to finance, including by direct loan, projects that enhance the reliability of water, electric, and natural gas utilities, broadband service providers, and power generation resources in Texas. The TWDB must provide written notice to the Legislative Budget Board (LBB) before the execution of each loan agreement entered into by the TWDB and provide a copy of the proposed agreement

to the LBB for approval. The resolution establishes that the proposed agreement is considered to be approved unless the LBB issues a written disapproval not later than the 21st day after the date on which LBB staff receives the submission.

C.S.H.J.R. 2 requires the legislature by general law to provide for the manner in which SURF assets may be used, subject to the limitations provided by the resolution, and authorizes the legislature by general law to provide for costs of investment and administration of the SURF to be paid from the SURF itself. For the purposes of the constitutional limit on the rate of growth of appropriations, an appropriation of money from the economic stabilization fund for the purpose of depositing that money to the credit of the SURF is considered to be a constitutionally dedicated appropriation of state tax revenues.

State Utilities Reliability Revenue Fund (SURRF)

C.S.H.J.R. 2 sets out the composition of the SURRF, to include the repayments of loans made from the fund, and restricts the use of the SURRF to providing financing for projects that enhance the reliability and resiliency of water, electric, and natural gas utilities, broadband providers, and power generation resources in Texas, in accordance with general law and requirements adopted by the TWDB. Separate accounts may be established in the SURRF as necessary to administer the fund or authorized projects and the financial assistance may be provided directly to private entities or utilities owned by public or private entities as provided by general law.

C.S.H.J.R. 2 authorizes the legislature by general law to authorize the TWDB to issue bonds, make loans, and enter into related credit agreements that are payable from revenues available to the SURRF. The TWDB must provide written notice to the LBB before issuing a bond or entering into a related credit agreement that is payable from revenue deposited to the credit of the SURRF and must provide a copy of the proposed bond or agreement to the LBB for approval. The resolution establishes that the proposed bond or agreement is considered to be approved unless the LBB issues a written disapproval not later than the 21st day after the date on which LBB staff receives the submission.

C.S.H.J.R. 2 requires the legislature by general law to provide for the manner in which SURRF assets may be used, subject to the limitations provided by the resolution, and authorizes the legislature by general law to provide for costs of investment of the SURRF to be paid from the SURRF. In each fiscal year in which amounts become due under the bonds or agreements, the TWDB must transfer from revenue deposited to the credit of the SURRF in that fiscal year an amount that is sufficient to pay the principal of and interest on the bonds that mature or become due during that fiscal year and any cost related to the bonds, including payments under related credit agreements that become due during that fiscal year.

C.S.H.J.R. 2 requires that any obligations authorized by general law to be issued by the TWDB be special obligations payable solely from amounts in the SURRF and establishes that obligations issued by the TWDB may not be a constitutional state debt payable from state general revenue. Any dedication or appropriation of revenue to the credit of the SURRF may not be modified so as to impair any outstanding bonds secured by a pledge of that revenue unless provisions have been made for a full discharge of those bonds. The resolution provides that money in the SURRF is constitutionally dedicated for purposes of the constitutional limit on the rate of growth of appropriations.

General Provisions

C.S.H.J.R. 2 establishes that its provisions are intended to establish a basic framework of the SURF and the SURRF, respectively, and that the legislature may provide for the implementation and effectuate the design and objects of resolution and may delegate duties, responsibilities, functions, and authority to the TWDB for those purposes.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 2, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.J.R. 2 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the resolution.

The substitute clarifies that the SURF and the SURRF may only be used for the purposes for which they were created, where the original did not.

Whereas the original authorized financial assistance from the SURF or the SURRF to be provided directly to utilities owned by public or private entities, the substitute expands that authorization to also allow assistance to be provided directly to private entities.

The substitute omits provisions included in the original authorizing the legislature by general law to authorize the TWDB to enter into certain bond enhancement agreements payable solely from the SURF.

The original restricted the use of the SURRF to providing financing for projects that enhance reliability of certain utilities and broadband. The substitute expands the authorized use of the SURRF to include financing projects that enhance resiliency. Moreover, the substitute makes projects relating to power generation resources in Texas eligible for financing through the SURF or the SURRF, whereas the original made projects relating to adequate capacity eligible for the SURF.

The substitute authorizes the legislature by general law to provide for costs of investment and administration of the SURF to be paid from the SURF, whereas the original provided only that investment costs could be paid from the SURF.

The substitute revises the composition of the SURRF as set out in the original to include repayments of loans made from the SURRF.

The substitute revises the ballot language prescribed by the original.