87R11933 CXP-F

By:  Hancock S.B. No. 2

A BILL TO BE ENTITLED

AN ACT

relating to independent organizations certified to manage power regions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 39.151, Utilities Code, is amended by amending Subsections (d), (g), and (g-1) and adding Subsection (g-2) to read as follows:

(d)  The commission shall adopt and enforce rules relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants, or may delegate to an independent organization responsibilities for adopting [~~establishing~~] or enforcing such rules. Rules [~~Any such rules~~] adopted by an independent organization and [~~any~~] enforcement actions taken by the organization under delegated authority from the commission are subject to commission oversight and review and may not take effect before receiving commission approval. An independent organization certified by the commission is directly responsible and accountable to the commission. The commission has complete authority to oversee and investigate the organization's finances, budget, and operations as necessary to ensure the organization's accountability and to ensure that the organization adequately performs the organization's functions and duties. The organization shall fully cooperate with the commission in the commission's oversight and investigatory functions. The commission may take appropriate action against an organization that does not adequately perform the organization's functions or duties or does not comply with this section, including decertifying the organization or assessing an administrative penalty against the organization. The commission by rule shall adopt procedures governing decertification of an independent organization, selecting and certifying a successor organization, and transferring assets to the successor organization to ensure continuity of operations in the region. The commission may not implement, by order or by rule, a requirement that is contrary to an applicable federal law or rule.

(g)  To maintain certification as an independent organization under this section, an organization's governing body must be composed of persons specified by this section and selected in accordance with formal bylaws or protocols of the organization. The bylaws or protocols must be approved by the commission and must reflect the input of the commission. The bylaws must specify the process by which appropriate stakeholders elect members and, for unaffiliated members, prescribe professional qualifications for selection as a member. The bylaws must require that every member of the governing body, other than members described by Subdivisions (1) and (2), be a resident of this state. The bylaws must require the use of a professional search firm to identify candidates for membership of unaffiliated members. The process must allow for commission input in identifying candidates. The governing body must be composed of:

(1)  the chairman of the commission as an ex officio nonvoting member;

(2)  the counsellor as an ex officio voting member representing residential and small commercial consumer interests;

(3)  the chief executive officer of the independent organization as an ex officio voting member;

(4)  six market participants elected by their respective market segments to serve one-year terms, with:

(A)  one representing independent generators, elected by a majority vote of the members of this market segment who each own and control five percent or more of the installed generation capacity located in the power region;

(B)  one representing investor-owned utilities;

(C)  one representing power marketers;

(D)  one representing retail electric providers;

(E)  one representing municipally owned utilities; and

(F)  one representing electric cooperatives;

(5)  one member representing industrial consumer interests and elected by the industrial consumer market segment to serve a one-year term;

(6)  one member representing large commercial consumer interests selected in accordance with the bylaws to serve a one-year term; and

(7)  five members unaffiliated with any market segment and selected by the other members of the governing body to serve three-year terms.

(g-1)  The bylaws of an independent organization must require that the [~~The~~] presiding officer of the governing body must be:

(1)  one of the members described by Subsection (g)(7); and

(2)  selected by the governor with the advice and consent of the senate.

(g-2)  To maintain certification as an independent organization under this section, the organization's governing body must establish and implement a formal process for adopting new protocols or revisions to existing protocols. The process must require that new or revised protocols may not take effect before receiving commission approval.

SECTION 2.  An independent organization certified under Section 39.151, Utilities Code, by the Public Utility Commission of Texas before September 1, 2021, shall modify the organization to comply with Section 39.151, Utilities Code, as amended by this Act, not later than September 1, 2021. After September 1, 2021, the Public Utility Commission of Texas may decertify an independent organization that does not comply with Section 39.151, Utilities Code, as amended by this Act.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.