

By: Paddie, et al.

H.B. No. 1520

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the recovery and securitization of certain  
3 extraordinary costs incurred by certain gas utilities; providing  
4 authority to issue bonds and impose fees and assessments.

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

6 SECTION 1. Section [1232.002](#), Government Code, is amended to  
7 read as follows:

8 Sec. 1232.002. PURPOSE. The purpose of this chapter is to  
9 provide a method of financing for:

- 10 (1) the acquisition or construction of buildings;  
11 [~~and~~]  
12 (2) the purchase or lease of equipment by executive or  
13 judicial branch state agencies; and  
14 (3) customer rate relief bonds authorized by the  
15 Railroad Commission of Texas.

16 SECTION 2. Section [1232.066](#)(a), Government Code, is amended  
17 to read as follows:

18 (a) The board's authority under this chapter is limited to  
19 the financing of:

- 20 (1) the acquisition or construction of a building;  
21 (2) the purchase or lease of equipment; [~~or~~]  
22 (3) stranded costs of a municipal power agency; or  
23 (4) customer rate relief bonds approved by the  
24 Railroad Commission of Texas.

1 SECTION 3. Subchapter C, Chapter 1232, Government Code, is  
2 amended by adding Section 1232.1072 to read as follows:

3 Sec. 1232.1072. ISSUANCE OF OBLIGATIONS FOR FINANCING  
4 CUSTOMER RATE RELIEF BONDS. (a) The authority, either directly or  
5 by means of a financing entity established by the authority, may  
6 issue obligations or other evidences of indebtedness for financing  
7 customer rate relief bonds approved under Subchapter I, Chapter  
8 104, Utilities Code.

9 (b) On a request to the authority from the Railroad  
10 Commission of Texas, the authority shall:

11 (1) issue obligations or other evidences of  
12 indebtedness in the amount of the requested customer rate relief  
13 bonds, plus the issuance costs; and

14 (2) grant to the Railroad Commission of Texas the  
15 proceeds of the obligations or evidences of indebtedness described  
16 by Subdivision (1).

17 (c) The request from the Railroad Commission of Texas  
18 described by Subsection (b) must include a statement of the payment  
19 terms for recovering customer rate relief costs.

20 (d) Obligations or evidences of indebtedness the authority  
21 issues under this section must be created under financing orders  
22 issued by the Railroad Commission of Texas. The financing orders  
23 must authorize the authority to create legally isolated,  
24 bankruptcy-remote financing entities to hold customer rate relief  
25 property. The authority may establish a financing entity  
26 authorized by a financing order.

27 (e) Obligations or evidences of indebtedness the authority

1 issues under this section for each approved customer rate relief  
2 financing must include, as part of the financing costs of the  
3 financing, the administrative costs related to the financing.

4 (f) Obligations or evidences of indebtedness the authority  
5 issues under this section must be secured by:

6 (1) customer rate relief property, as defined by  
7 Section 104.362, Utilities Code; and

8 (2) customer rate relief charges, as defined by  
9 Section 104.362, Utilities Code, that are nonbypassable, as defined  
10 by that section, imposed by the authority on customers receiving  
11 natural gas services provided by the gas utility, as defined by that  
12 section, that is making the request to recover a regulatory asset  
13 under Section 104.365, Utilities Code.

14 (g) The customer rate relief property and customer rate  
15 relief charges described by Subsection (f) must be consistent with  
16 the customer rate relief recovery terms stated in the gas utility's  
17 request to recover a regulatory asset under Section 104.365,  
18 Utilities Code, unless otherwise approved by the Railroad  
19 Commission of Texas.

20 (h) An obligation or evidence of indebtedness the authority  
21 issues under this section is not a debt of this state, the Railroad  
22 Commission of Texas, or a gas utility.

23 (i) The Railroad Commission of Texas shall provide to the  
24 authority assistance necessary to ensure that the customer rate  
25 relief charges described by Subsection (f) are collected and  
26 enforced, either directly or by using the assistance and powers of  
27 the gas utility requesting to recover a regulatory asset under

1 Section 104.365, Utilities Code, as servicer.

2 (j) The authority and the Railroad Commission of Texas have  
3 all the powers necessary to perform the duties and responsibilities  
4 described by this section. This section shall be interpreted  
5 broadly in a manner consistent with the most cost-effective  
6 financing of customer rate relief related costs.

7 (k) Obligations or evidences of indebtedness issued by the  
8 authority under this section may be structured so that any interest  
9 on the obligations or evidences of indebtedness is excluded from  
10 gross income for federal income tax purposes. Any interest on the  
11 obligations or evidences of indebtedness is not subject to taxation  
12 by and may not be included as part of the measurement of a tax by  
13 this state or a political subdivision of this state.

14 (l) The authority shall make periodic reports to the  
15 Railroad Commission of Texas and the public regarding each  
16 financing made under this section.

17 SECTION 4. Section [1232.108](#), Government Code, is amended to  
18 read as follows:

19 Sec. 1232.108. LEGISLATIVE AUTHORIZATION REQUIRED. Except  
20 as permitted by Section [1232.1072](#), [1232.109](#), [2166.452](#), or [2166.453](#),  
21 before the board may issue and sell bonds, the legislature by the  
22 General Appropriations Act or other law must have authorized:

23 (1) the specific project for which the bonds are to be  
24 issued and sold; and

25 (2) the estimated cost of the project or the maximum  
26 amount of bonded indebtedness that may be incurred by the issuance  
27 and sale of bonds for the project.

1 SECTION 5. Chapter 104, Utilities Code, is amended by  
2 adding Subchapter I to read as follows:

3 SUBCHAPTER I. CUSTOMER RATE RELIEF BONDS

4 Sec. 104.361. PURPOSE; RAILROAD COMMISSION DUTY. (a) The  
5 purpose of this subchapter is to reduce the cost that customers  
6 would otherwise experience because of extraordinary costs that gas  
7 utilities incur to secure gas supply and provide service during  
8 natural and man-made disasters, system failures, or other  
9 catastrophic events, and to restore gas utility systems after those  
10 types of events, by providing securitization financing for gas  
11 utilities to recover those costs. The securitization financing  
12 mechanism authorized by this subchapter will:

13 (1) provide rate relief to customers by extending the  
14 period during which the extraordinary costs described by Subsection  
15 (a) are recovered from customers; and

16 (2) support the financial strength and stability of  
17 gas utility companies.

18 (b) The railroad commission shall ensure that  
19 securitization provides tangible and quantifiable benefits to  
20 customers, greater than would have been achieved absent the  
21 issuance of customer rate relief bonds.

22 Sec. 104.362. DEFINITIONS. In this subchapter:

23 (1) "Ancillary agreement" means a financial  
24 arrangement entered into in connection with the issuance or payment  
25 of customer rate relief bonds that enhances the marketability,  
26 security, or creditworthiness of customer rate relief bonds,  
27 including a bond, insurance policy, letter of credit, reserve

1 account, surety bond, interest rate or currency swap arrangement,  
2 interest rate lock agreement, forward payment conversion  
3 agreement, other hedging arrangement, or liquidity or credit  
4 support arrangement.

5 (2) "Assignee" means any legally recognized entity to  
6 which an interest in customer rate relief property is transferred,  
7 other than as security. The term includes a corporation, limited  
8 liability company, public authority, trust, general partnership,  
9 limited partnership, or other financing entity.

10 (3) "Authority" means the Texas Public Finance  
11 Authority.

12 (4) "Bond administrative expenses" means expenses  
13 incurred to administer customer rate relief bonds issued under this  
14 subchapter, including fees for paying agents, trustees, and  
15 attorneys, and for paying for other professional services necessary  
16 to ensure compliance with applicable state or federal law.

17 (5) "Bond obligations" means the principal of a  
18 customer rate relief bond and any premium and interest on a customer  
19 rate relief bond issued under this subchapter, together with any  
20 amount owed under a related ancillary agreement or credit  
21 agreement.

22 (6) "Credit agreement" means a loan agreement,  
23 revolving credit agreement, agreement establishing a line of  
24 credit, or similar financing arrangement.

25 (7) "Customer rate relief bonds" means bonds, notes,  
26 certificates, or other evidences of indebtedness or ownership the  
27 proceeds of which are used directly or indirectly to recover,

1 finance, or refinance regulatory assets approved by the railroad  
2 commission, including extraordinary costs and related financing  
3 costs, and that are:

4 (A) issued by an assignee under a financing  
5 order; and

6 (B) payable from and secured by customer rate  
7 relief property and amounts on deposit in the obligation trust fund  
8 to the extent provided by the applicable financing order.

9 (8) "Customer rate relief charges" means the amounts  
10 authorized by the railroad commission as nonbypassable charges to  
11 repay, finance, or refinance regulatory assets, including  
12 extraordinary costs, financing costs, and other costs authorized by  
13 the financing order:

14 (A) imposed on and included in customer bills of  
15 a gas utility that has received a regulatory asset determination  
16 under Section 104.365;

17 (B) collected in full by a gas utility that has  
18 received a regulatory asset determination under Section 104.365, or  
19 its successors or assignees, or a collection agent, as servicer,  
20 separate and apart from the gas utility's base rates; and

21 (C) paid by all existing or future customers  
22 receiving service from a gas utility that has received a regulatory  
23 asset determination under Section 104.365 or its successors or  
24 assignees, even if a customer elects to purchase gas from an  
25 alternative gas supplier.

26 (9) "Customer rate relief property" means property  
27 described by Section 104.367.

1           (10) "Financing costs" means any of the following:

2                   (A) interest and acquisition, defeasance, or  
3 redemption premiums that are payable on customer rate relief bonds;

4                   (B) a payment required under an ancillary  
5 agreement and an amount required to fund or replenish reserve or  
6 other accounts established under the terms of an indenture,  
7 ancillary agreement, or other financing document pertaining to  
8 customer rate relief bonds;

9                   (C) issuance costs and ongoing costs related to  
10 supporting, repaying, servicing, or refunding customer rate relief  
11 bonds, including servicing fees, accounting and auditing fees,  
12 trustee fees, legal fees and expenses, consulting fees,  
13 administrative fees, printing fees, financial advisor fees and  
14 expenses, Securities and Exchange Commission registration fees,  
15 issuer fees, placement and underwriting fees, capitalized  
16 interest, overcollateralization funding requirements, rating  
17 agency fees, stock exchange listing and compliance fees, filing  
18 fees, and any other bond administration expenses; and

19                   (D) the costs to the railroad commission of  
20 acquiring professional services for the purpose of evaluating  
21 extraordinary costs under this subchapter.

22           (11) "Financing order" means an order adopted under  
23 Section 104.366 approving the issuance of customer rate relief  
24 bonds and the creation of customer rate relief property and  
25 associated customer rate relief charges for the recovery of  
26 regulatory assets, including extraordinary costs, related  
27 financing costs, and other costs authorized by the financing order.



1           (12) "Financing party" means a holder of customer rate  
2 relief bonds, including a trustee, collateral agent, any party  
3 under an ancillary agreement, or other person acting for the  
4 holder's benefit.

5           (13) "Gas utility" means:

6           (A) an operator of natural gas distribution  
7 pipelines that delivers and sells natural gas to the public and that  
8 is subject to the railroad commission's jurisdiction under Section  
9 102.001; or

10           (B) an operator that transmits, transports,  
11 delivers, or sells natural gas or synthetic natural gas to  
12 operators of natural gas distribution pipelines and whose rates for  
13 those services are established by the railroad commission in a rate  
14 proceeding filed under this chapter.

15           (14) "Nonbypassable" means a charge that may not be  
16 offset by any credit.

17           (15) "Normalized market pricing" means the average  
18 monthly pricing at the Henry Hub for the three months immediately  
19 preceding the month during which extraordinary costs were incurred,  
20 plus contractual adders to the index price and other non-indexed  
21 gas procurement costs.

22           (16) "Regulatory asset" includes extraordinary costs:

23           (A) recorded by a gas utility in the utility's  
24 books and records in accordance with the uniform system of accounts  
25 prescribed for natural gas companies subject to the provisions of  
26 the Natural Gas Act (15 U.S.C. Section 717 et seq.) by the Federal  
27 Energy Regulatory Commission and generally accepted accounting

1 principles; or

2 (B) classified as a receivable or financial asset  
3 under international financial reporting standards under the  
4 railroad commission's authorization in the Notice of Authorization  
5 for Regulatory Asset Accounting for Local Distribution Companies  
6 Affected by the February 2021 Winter Weather Event issued February  
7 13, 2021, or any later notice or order issued by the railroad  
8 commission for other similarly authorized natural or man-made  
9 disasters or system failure events.

10 Sec. 104.363. EXTRAORDINARY COSTS. For the purposes of  
11 this subchapter, extraordinary costs are the reasonable and  
12 necessary costs, including carrying costs, placed in a regulatory  
13 asset and approved by the railroad commission in a regulatory asset  
14 determination under Section 104.365.

15 Sec. 104.364. JURISDICTION AND POWERS OF RAILROAD  
16 COMMISSION AND OTHER REGULATORY AUTHORITIES. (a) The railroad  
17 commission may authorize the issuance of customer rate relief bonds  
18 if the requirements of Section 104.366 are met.

19 (b) The railroad commission may assess to a gas utility  
20 costs associated with administering this subchapter. Assessments  
21 must be recovered from rate-regulated customers as part of gas  
22 cost.

23 (c) The railroad commission has exclusive, original  
24 jurisdiction to issue financing orders that authorize the creation  
25 of customer rate relief property, customer rate relief charges to  
26 service customer rate relief bonds, and financing costs. Customer  
27 rate relief charges, if authorized by the railroad commission

1 through a financing order in that commission's sole discretion,  
2 must be imposed pursuant to customer rate relief property and not by  
3 a gas utility.

4 (d) Except as provided by Subsection (c), this subchapter  
5 does not limit or impair a regulatory authority's plenary  
6 jurisdiction over the rates, charges, and services rendered by gas  
7 utilities in this state under Chapter 102.

8 Sec. 104.365. REGULATORY ASSET DETERMINATION. (a) The  
9 railroad commission, on application of a gas utility to recover a  
10 regulatory asset, shall determine the regulatory asset amount to be  
11 recovered by the gas utility.

12 (b) A gas utility desiring to participate in the customer  
13 rate relief bond process under a financing order must file an  
14 application with the railroad commission not later than the 90th  
15 day after the date of the conclusion of the event for which  
16 regulatory asset recovery is requested. The railroad commission  
17 shall determine an application date deadline consistent with this  
18 subsection.

19 (c) Notwithstanding the deadline provided by Subsection  
20 (b), a gas utility desiring to participate in the customer rate  
21 relief bond process under a financing order by requesting recovery  
22 of a regulatory asset relating to the February 2021 winter storm may  
23 file an application with the railroad commission on or before the  
24 60th day after the effective date of the Act enacting this  
25 subchapter.

26 (d) If the railroad commission does not make a final  
27 determination regarding the regulatory asset amount to be recovered

1 by a gas utility before the 91st day after the gas utility files the  
2 application, the railroad commission is considered to have approved  
3 the regulatory asset amount requested by the gas utility.

4 (e) The regulatory asset determination is not subject to  
5 reduction, impairment, or adjustment by further action of the  
6 railroad commission, except as authorized by Section 104.370.

7 (f) The regulatory asset determination is not subject to  
8 rehearing by the railroad commission and may be appealed only to a  
9 Travis County district court by a party to the proceeding. The  
10 appeal must be filed not later than the 15th day after the date the  
11 order is signed by the railroad commission.

12 (g) The judgment of the district court may be reviewed only  
13 by direct appeal to the Supreme Court of Texas. The appeal must be  
14 filed not later than the 15th day after the date of entry of  
15 judgment.

16 (h) All appeals shall be heard and determined by the  
17 district court and the Supreme Court of Texas as expeditiously as  
18 possible with lawful precedence over other matters. Review on  
19 appeal shall be based solely on the record before the railroad  
20 commission and briefs to the court and limited to whether the  
21 financing order:

22 (1) complies with the constitution and laws of this  
23 state and the United States; and

24 (2) is within the authority of the railroad commission  
25 to issue under this subchapter.

26 (i) The railroad commission by order shall establish a  
27 schedule, filing requirements, and a procedure for determining the

1 prudence of the costs included in a gas utility's regulatory asset.

2 (j) To the extent a gas utility subject to this subchapter  
3 receives insurance proceeds, governmental grants, or other sources  
4 of funding that compensate or otherwise reimburse or indemnify the  
5 gas utility for extraordinary costs following the issuance of  
6 customer rate relief bonds, the gas utility may record the amount in  
7 a regulatory liability account and that amount shall be reviewed in  
8 a future proceeding. If an audit conducted under a valid gas  
9 purchase agreement identifies a change of greater than five percent  
10 to the total amount of the gas supply costs incurred during the  
11 event for which regulatory asset recovery was approved, the gas  
12 utility may record the amount in a regulatory asset or regulatory  
13 liability account and that amount shall be reviewed for recovery in  
14 a future proceeding.

15 Sec. 104.366. FINANCING ORDERS AND ISSUANCE OF CUSTOMER  
16 RATE RELIEF BONDS. (a) If the railroad commission determines that  
17 customer rate relief bond financing for extraordinary costs is the  
18 most cost-effective method of funding regulatory asset  
19 reimbursements to be made to gas utilities, the railroad  
20 commission, after the final resolution of all applications filed  
21 under Section 104.365, may request the authority to issue customer  
22 rate relief bonds on the railroad commission's behalf. Before  
23 making the request, the railroad commission must issue a financing  
24 order that complies with this section.

25 (b) To make the determination described by Subsection (a),  
26 the railroad commission must find that the proposed structuring,  
27 expected pricing, and proposed financing costs of the customer rate

1 relief bonds are reasonably expected to provide benefits to  
2 customers by comparing:

3 (1) the net present value of the costs to customers  
4 resulting from the issuance of customer rate relief bonds; and

5 (2) the costs that would result from the application  
6 of conventional methods of financing or recovering gas utility  
7 extraordinary costs and other costs authorized by a financing  
8 order.

9 (c) The financing order must:

10 (1) include a finding that the use of the  
11 securitization financing mechanism is in the public interest and  
12 consistent with the purposes of this subchapter;

13 (2) detail the total amount of the regulatory asset  
14 determinations to be included in the customer rate relief bond  
15 issuance;

16 (3) authorize the recovery of any tax obligation of  
17 the gas utilities arising or resulting from:

18 (A) receipt of customer rate relief bond  
19 proceeds; or

20 (B) collection or remittance of customer rate  
21 relief charges through the gas utilities' gas cost recovery  
22 mechanism or other means that the railroad commission determines  
23 reasonable;

24 (4) authorize the authority's issuance of customer  
25 rate relief bonds through one or more legally isolated,  
26 bankruptcy-remote financing entities established by the authority;

27 (5) include a statement of:

1           (A) the aggregated regulatory asset  
2 determination to be included in the principal amount of the  
3 customer rate relief bonds, not to exceed \$10 billion for any  
4 separate bond issue; and

5           (B) the maximum scheduled final maturity of the  
6 customer rate relief bonds, not to exceed 30 years, except that the  
7 legal final maturity may be longer based on rating agency and market  
8 considerations;

9           (6) provide for the imposition, collection, and  
10 mandatory periodic formulaic adjustment of customer rate relief  
11 charges in accordance with Section 104.370 by all gas utilities for  
12 which a regulatory asset determination has been made under Section  
13 104.365 to guarantee that the bonds will be paid in full;

14           (7) authorize the creation of customer rate relief  
15 property in favor of the authority and the authority's transfer of  
16 the property;

17           (8) direct the authority to disperse the proceeds of  
18 customer rate relief bonds to gas utilities for which a regulatory  
19 asset determination has been made under Section 104.365 and include  
20 the amounts to be distributed;

21           (9) provide that customer rate relief charges be  
22 collected and allocated among customers of each utility for which a  
23 regulatory determination has been made under Section 104.365  
24 through uniform monthly volumetric charges to be paid by customers  
25 as a component of the gas utility's gas cost or in another manner  
26 that the railroad commission determines reasonable; and

27           (10) reflect the commitment made by each gas utility

1 receiving proceeds that the proceeds are in lieu of recovery of  
2 those costs through the regular ratemaking process or other  
3 mechanism to the extent the costs are reimbursed to the gas utility  
4 by customer rate relief bond financing proceeds.

5 (d) The principal amount determined by the railroad  
6 commission may be increased to include an amount sufficient to:

7 (1) pay the financing costs for issuance;

8 (2) reimburse the authority for any costs incurred for  
9 the issuance;

10 (3) provide a bond reserve fund; and

11 (4) capitalize interest for the period determined  
12 necessary by the railroad commission.

13 (e) The authority, consistent with this subchapter and the  
14 terms of the financing order, shall:

15 (1) issue customer rate relief bonds at the railroad  
16 commission's request, in accordance with the requirements of  
17 Chapter 1232, Government Code, and other provisions of Title 9,  
18 Government Code, that apply to bond issuance by a state agency; and

19 (2) determine the methods of sale, types of bonds,  
20 bond forms, maximum interest rates, and other terms of the customer  
21 rate relief bonds that in the authority's judgment best achieve the  
22 economic goals of the financing order and effect the financings at  
23 the lowest practicable cost.

24 (f) The authority shall establish legally isolated,  
25 bankruptcy-remote financing entities and may enter into credit  
26 agreements or ancillary agreements in connection with the issuance  
27 of customer rate relief bonds.



1       (g) The financing order becomes effective in accordance  
2 with its terms. The financing order, together with the customer  
3 rate relief property and the customer rate relief charges  
4 authorized by the financing order, is irrevocable and not subject  
5 to reduction, impairment, or adjustment by further action of the  
6 railroad commission, except as provided under Subsection (i) and  
7 authorized by Section 104.370.

8       (h) The railroad commission shall issue a financing order  
9 under this section not later than the 90th day following the date of  
10 the conclusion of all proceedings filed under Section 104.365.

11       (i) A financing order is not subject to rehearing by the  
12 railroad commission. A financing order may be appealed only to a  
13 Travis County district court by a party to the proceeding. The  
14 appeal must be filed not later than the 15th day after the date the  
15 financing order is signed by the railroad commission.

16       (j) The judgment of the district court may be reviewed only  
17 by direct appeal to the Supreme Court of Texas. The appeal must be  
18 filed not later than the 15th day after the date of entry of  
19 judgment.

20       (k) All appeals shall be heard and determined by the  
21 district court and the Supreme Court of Texas as expeditiously as  
22 possible with lawful precedence over other matters. Review on  
23 appeal shall be based solely on the record before the railroad  
24 commission and briefs to the court and is limited to whether the  
25 financing order:

26               (1) complies with the constitution and laws of this  
27 state and the United States; and

1           (2) is within the authority of the railroad commission  
2 to issue under this subchapter.

3           (1) The authority shall issue customer rate relief bonds not  
4 later than the 45th day after receipt of a financing order issued  
5 under this section.

6           (m) The authority shall deliver customer rate relief bond  
7 proceeds net of upfront financing costs to each gas utility  
8 sufficient to reimburse the gas utility the regulatory asset amount  
9 determined to be reasonable under Section 104.365 not later than  
10 the 15th day after the date of issuance of the customer rate relief  
11 bonds.

12           (n) For the weather-related event that occurred in February  
13 2021, the authority shall deliver customer rate relief bond  
14 proceeds net of upfront financing costs to each gas utility no later  
15 than December 31, 2021. This subsection expires September 1, 2023.

16           Sec. 104.367. PROPERTY RIGHTS. (a) Customer rate relief  
17 bonds are solely the obligation of the assignee or issuing  
18 financing entity and are not a debt of a gas utility or a debt or a  
19 pledge of the faith and credit of this state or any political  
20 subdivision of this state.

21           (b) Customer rate relief bonds are nonrecourse to the credit  
22 or any assets of this state or the authority.

23           (c) The rights and interests of the authority or the  
24 authority's successor under a financing order, including the right  
25 to impose and receive customer rate relief charges authorized in  
26 the financing order, are only contract rights until first  
27 transferred to an assignee or pledged in connection with the

1 issuance of the customer rate relief bonds, at which time the rights  
2 and interests become customer rate relief property.

3 (d) Customer rate relief property constitutes a present  
4 property right for purposes of contracts concerning the sale or  
5 pledge of property, notwithstanding that the imposition and  
6 collection of customer rate relief charges depends on further acts  
7 of the gas utility or others that have not yet occurred. The  
8 financing order remains in effect, and the customer rate relief  
9 property continues to exist, for the same period as the pledge of  
10 the state described by Section 104.374.

11 (e) All revenue and collections resulting from customer  
12 rate relief charges constitute proceeds only of a property right  
13 arising from the financing order.

14 (f) An amount owed by the authority or an issuer under a  
15 credit agreement is payable from and secured by the customer rate  
16 relief property, including customer rate relief charges and amounts  
17 to the extent provided in the proceedings authorizing the credit  
18 agreement.

19 Sec. 104.368. PROPERTY INTEREST NOT SUBJECT TO SETOFF,  
20 COUNTERCLAIM, SURCHARGE, OR DEFENSE. The interest of an assignee  
21 or pledgee in customer rate relief property, including the revenue  
22 and collections arising from customer rate relief charges, is not  
23 subject to setoff, counterclaim, surcharge, or defense by the gas  
24 utility or any other person or in connection with the bankruptcy of  
25 the gas utility, the authority, or any other entity. A financing  
26 order remains in effect and unabated notwithstanding the bankruptcy  
27 of the gas utility or authority, or any successor or assignee of the

1 gas utility or authority.

2 Sec. 104.369. CUSTOMER RATE RELIEF CHARGES NONBYPASSABLE.

3 A financing order must include terms ensuring that the imposition  
4 and collection of the customer rate relief charges authorized in  
5 the order are nonbypassable.

6 Sec. 104.370. TRUE-UP MECHANISM. (a) A financing order  
7 must include a formulaic true-up charge adjustment mechanism that  
8 requires that the customer rate relief charges be reviewed and  
9 adjusted at least annually, at time periods and frequencies  
10 provided in the financing order, to:

11 (1) correct any overcollections or undercollections  
12 of the preceding 12 months; and

13 (2) ensure the expected recovery of amounts sufficient  
14 to provide for the timely payment of upcoming scheduled customer  
15 rate relief bond payments and financing costs.

16 (b) True-up charge adjustments must become effective not  
17 later than the 30th day after the date the railroad commission  
18 receives a true-up charge adjustment letter from the gas utility or  
19 replacement servicer notifying the railroad commission of the  
20 pending adjustment.

21 (c) Any administrative review of true-up charge adjustments  
22 must be limited to notifying the servicer of mathematical or  
23 clerical errors in the calculation. The servicer may correct the  
24 error and refile a true-up charge adjustment letter, with the  
25 adjustment becoming effective as soon as practicable but not later  
26 than the 30th day after the date the railroad commission receives  
27 the refiled letter.

1       Sec. 104.371. SECURITY INTERESTS; ASSIGNMENT; COMMINGLING;  
2 DEFAULT. (a) Customer rate relief property does not constitute an  
3 account or general intangible under Section 9.106, Business &  
4 Commerce Code. The creation, granting, perfection, and enforcement  
5 of liens and security interests in customer rate relief property  
6 are governed by this section and not by the Business & Commerce  
7 Code.

8       (b) A valid and enforceable lien and security interest in  
9 customer rate relief property may be created only by a financing  
10 order and the execution and delivery of a security agreement with a  
11 financing party in connection with the issuance of customer rate  
12 relief bonds. The lien and security interest attach automatically  
13 from the time that value is received for the customer rate relief  
14 bonds and, on perfection through the filing of notice with the  
15 secretary of state in accordance with the rules prescribed under  
16 Subsection (d), are a continuously perfected lien and security  
17 interest in the customer rate relief property and all proceeds of  
18 the property, whether accrued or not, have priority in the order of  
19 filing and take precedence over any subsequent judicial or other  
20 lien creditor. The security interest is perfected as of the date of  
21 the filing, except that if notice is filed before the 11th day after  
22 value is received for the customer rate relief bonds, the security  
23 interest is perfected retroactive to the date value was received.

24       (c) Transfer of an interest in customer rate relief property  
25 to an assignee is perfected against all third parties, including  
26 subsequent judicial or other lien creditors, when the financing  
27 order becomes effective, transfer documents have been delivered to

1 the assignee, and a notice of that transfer has been filed in  
2 accordance with the rules prescribed under Subsection (d). If  
3 notice of the transfer is not filed in accordance with this  
4 subsection before the 11th day after the delivery of transfer  
5 documentation, the transfer of the interest is not perfected  
6 against third parties until the notice is filed.

7 (d) The secretary of state shall:

8 (1) establish and maintain a separate system of  
9 records for the filing of notices under this section; and

10 (2) adopt rules governing filing notices under this  
11 section that are based on Chapter 9, Business & Commerce Code,  
12 adapted to this subchapter, and use the terms as defined by this  
13 subchapter.

14 (e) The priority of a lien and security interest perfected  
15 under this section is not impaired by any later modification of the  
16 financing order under a mechanism adopted under Section 104.370 or  
17 by the commingling of funds arising from customer rate relief  
18 charges with other funds. Any other security interest that may  
19 apply to those funds is terminated when the funds are transferred to  
20 a segregated account for the assignee or a financing party. If  
21 customer rate relief property has been transferred to an assignee,  
22 any proceeds of that property must be held in trust for the  
23 assignee.

24 (f) If a default or termination occurs under the customer  
25 rate relief bonds, a district court of Travis County, on  
26 application by or on behalf of the financing parties, shall order  
27 the sequestration and payment to the financing parties of revenue

1 arising from the customer rate relief charges.

2 Sec. 104.372. BOND PROCEEDS IN TRUST. (a) The authority  
3 may deposit proceeds of customer rate relief bonds issued by or on  
4 behalf of the authority under this subchapter with a trustee  
5 selected by the authority or the proceeds may be held by the  
6 comptroller in a dedicated trust fund outside the state treasury in  
7 the custody of the comptroller.

8 (b) Bond proceeds, including investment income, must be  
9 held in trust for the exclusive benefit of the railroad  
10 commission's policy of reimbursing gas utility costs. The  
11 authority shall use the proceeds to:

12 (1) reimburse each gas utility the regulatory asset  
13 amount determined to be reasonable for that gas utility in the  
14 financing order;

15 (2) pay the financing costs of issuing the bonds; and

16 (3) provide bond reserves, as applicable.

17 (c) If there are no outstanding bonds or bond interest to be  
18 paid, the remaining proceeds must be used to provide credits to gas  
19 utility customers.

20 Sec. 104.373. REPAYMENT OF CUSTOMER RATE RELIEF BONDS. (a)  
21 If any customer rate relief bonds or related financing costs remain  
22 outstanding, uniform monthly volumetric customer rate relief  
23 charges must be paid by all current and future customers that  
24 receive service from a gas utility for which a regulatory asset  
25 determination has been made under Section 104.365. A gas utility  
26 and its successors, assignees, or replacements shall continue to  
27 bill and collect, as servicer, customer rate relief charges from

1 the gas utility's current and future customers until all customer  
2 rate relief bonds and financing costs are paid in full.

3 (b) The authority shall report to the railroad commission  
4 the amount of the outstanding customer rate relief bonds issued by  
5 the authority under this subchapter and the estimated amount of  
6 annual bond administrative expenses.

7 (c) All revenue collected from the customer rate relief  
8 charges shall be remitted promptly by the applicable servicers to  
9 the authority to pay bond obligations, ongoing financing costs, and  
10 bond administrative expenses to ensure timely payment of bond  
11 obligations and financing costs.

12 (d) Revenue received from the customer rate relief charges  
13 may be applied only as provided by this subchapter.

14 (e) Bond obligations are payable only from sources provided  
15 for payment by this subchapter.

16 Sec. 104.374. PLEDGE OF STATE. (a) Customer rate relief  
17 bonds issued under this subchapter and any related ancillary  
18 agreements or credit agreements are not a debt or pledge of the  
19 faith and credit of this state or a state agency or political  
20 subdivision of this state. A customer rate relief bond, ancillary  
21 agreement, or credit agreement is payable solely from customer rate  
22 relief charges as provided by this subchapter.

23 (b) Notwithstanding Subsection (a), this state, including  
24 the railroad commission and the authority, pledges for the benefit  
25 and protection of the financing parties and the gas utility that  
26 this state will not take or permit any action that would impair the  
27 value of customer rate relief property, or, except as permitted by



1 Section 104.370, reduce, alter, or impair the customer rate relief  
2 charges to be imposed, collected, and remitted to financing parties  
3 until the principal, interest and premium, and contracts to be  
4 performed in connection with the related customer rate relief bonds  
5 and financing costs have been paid and performed in full. The  
6 authority or any other entity issuing customer rate relief bonds  
7 may include this pledge in any documentation relating to those  
8 bonds.

9 Sec. 104.375. TAX EXEMPTION. (a) Customer rate relief  
10 bonds issued under this subchapter, transactions relating to  
11 customer rate relief bonds, and profits made from the sale of  
12 customer rate relief bonds are exempt from taxation by this state or  
13 a political subdivision of this state.

14 (b) A gas utility's receipt or collection of customer rate  
15 relief charges is exempt from state and local income, sales,  
16 franchise, gross receipts, and other taxes or similar assessments.

17 (c) A tax obligation of the gas utility arising from receipt  
18 of customer rate relief bond proceeds or from the collection or  
19 remittance of customer rate relief charges is an expense that may be  
20 recovered by the gas utility.

21 Sec. 104.376. ASSIGNEE OR FINANCING PARTY NOT PUBLIC  
22 UTILITY. An assignee or financing party may not be considered to be  
23 a public utility or person providing natural gas service solely by  
24 virtue of the transactions described by this subchapter.

25 Sec. 104.377. NO PERSONAL LIABILITY. A commissioner of the  
26 railroad commission, a railroad commission employee, a member of  
27 the board of directors of the authority, or an employee of the

1 authority is not personally liable for a result of an exercise of a  
2 duty or responsibility established under this subchapter.

3 Sec. 104.378. SEVERABILITY. After the date customer rate  
4 relief bonds are issued under this subchapter, if any provision in  
5 this title or portion of this title is held to be invalid or is  
6 invalidated, superseded, replaced, repealed, or expires for any  
7 reason, that occurrence does not affect the validity or  
8 continuation of this subchapter or any other provision of this  
9 title that is relevant to the issuance, administration, payment,  
10 retirement, or refunding of customer rate relief bonds or to any  
11 actions of a gas utility, its successors, an assignee, a collection  
12 agent, or a financing party, which shall remain in full force and  
13 effect.

14 SECTION 6. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2021.