AN ACT
relating to the governance of the Public Utility Commission of Texas, the Office of Public Utility Counsel, and an independent organization certified to manage a power region.

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

SECTION 1. Subchapter B, Chapter 12, Utilities Code, is amended by adding Section 12.0521 to read as follows:

Sec. 12.0521. PRESIDING OFFICER QUALIFICATIONS. The commissioner designated as the presiding officer must be a resident of this state.

SECTION 2. Section 13.022(a), Utilities Code, is amended to read as follows:

(a) The counsellor must:

(1) be licensed to practice law in this state and a resident of this state;

(2) have demonstrated a strong commitment to and involvement in efforts to safeguard the rights of the public; and

(3) possess the knowledge and experience necessary to practice effectively in utility proceedings.

SECTION 3. Section 39.151, Utilities Code, is amended by amending Subsections (d), (g), and (g-1) and adding Subsections (g-2), (g-3), (g-4), (g-5), and (g-6) 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 or enforcing such rules. Rules adopted by an
independent organization and 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 for the ERCOT power region under this section, an
organization's governing body must be composed of persons selected
by the ERCOT board selection committee [specified by this section
and selected in accordance with formal bylaws or protocols of the
organization].

   (g-1) The independent organization's 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 be a resident of this state and must prohibit a legislator from
serving as a member [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 nonvoting [voting] member; and

   (4) eight members selected by the selection committee
under Section 39.1513 with executive-level experience in any of the
following professions:

   (A) finance;

   (B) business;
(C) engineering, including electrical engineering;
(D) trading;
(E) risk management;
(F) law; or
(G) electric market design [six market participants elected by their respective market segments to serve one-year terms, with:

[(A)] one representing independent generators;
[(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-2) Members [(g-1) The presiding officer] of the governing body are entitled to receive a salary for their service [must be one of the members described by Subsection (g)(7)].
(g-3) A person does not qualify for selection as a member of the governing body of an independent organization for the ERCOT power region if the person has a fiduciary duty or assets in the electricity market for that region.

(g-4) To maintain certification as an independent organization under this section, the organization's governing body may not include more than two members who are employed by an institution of higher education, as defined by Section 61.003, Education Code, in a professorial role.

(g-5) A former member of the governing body of an independent organization certified under this section may not, before the second anniversary of the date the member ceases to be a member of the governing body, engage in an activity that requires registration under Chapter 305, Government Code.

(g-6) 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 until the commission approves a market impact statement describing the new or revised protocols.

SECTION 4. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.1513 to read as follows:

Sec. 39.1513. ERCOT BOARD SELECTION COMMITTEE. (a) The ERCOT board selection committee is composed of:

(1) one member appointed by the governor;

(2) one member appointed by the lieutenant governor;
and

(3) one member appointed by the speaker of the house of representatives.

(b) A person may not be appointed as a member of the committee unless the person is a resident of this state.

(c) A member of the committee is not entitled to compensation for serving as a member but is entitled to reimbursement for actual and necessary expenses incurred in performing the official duties of office.

(d) The committee shall select members eligible under Section 39.151 to serve on the governing body of an independent organization certified under that section for the ERCOT power region and shall designate the chair and vice chair of the governing body from those members.

(e) The ERCOT board selection committee shall retain an outside consulting firm to help select members of the governing body under Subsection (d).

SECTION 5. 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. 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 6. 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
S.B. No. 2

1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect September 1, 2021.
I hereby certify that S.B. No. 2 passed the Senate on April 14, 2021, by the following vote: Yeas 30, Nays 1; May 27, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2021, House granted request of the Senate; May 30, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 27, Nays 4.

I hereby certify that S.B. No. 2 passed the House, with amendments, on May 24, 2021, by the following vote: Yeas 142, Nays 1, one present not voting; May 28, 2021, House granted request of the Senate for appointment of Conference Committee; May 30, 2021, House adopted Conference Committee Report by the following vote: Yeas 132, Nays 5, two present not voting.

Approved:

Date

Governor