

By: Hancock, et al.
(Paddie)

S.B. No. 2

Substitute the following for S.B. No. 2:

By: Paddie

C.S.S.B. No. 2

A BILL TO BE ENTITLED

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

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

6 SECTION 1. Section 12.052(a), Utilities Code, is amended to
7 read as follows:

8 (a) The governor shall designate a commissioner as the
9 presiding officer. The commissioner designated as the presiding
10 officer must be a resident of this state.

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

13 (a) The counsellor must:

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

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

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

20 SECTION 3. Section 39.151, Utilities Code, is amended by
21 amending Subsections (d), (g), and (g-1) and adding Subsections
22 (g-2), (g-3), and (g-4) to read as follows:

23 (d) The commission shall adopt and enforce rules relating to
24 the reliability of the regional electrical network and accounting

1 for the production and delivery of electricity among generators and
2 all other market participants, or may delegate to an independent
3 organization responsibilities for adopting [~~establishing~~] or
4 enforcing such rules. Rules [~~Any such rules~~] adopted by an
5 independent organization and [~~any~~] enforcement actions taken by the
6 organization under delegated authority from the commission are
7 subject to commission oversight and review and may not take effect
8 before receiving commission approval. An independent organization
9 certified by the commission is directly responsible and accountable
10 to the commission. The commission has complete authority to
11 oversee and investigate the organization's finances, budget, and
12 operations as necessary to ensure the organization's
13 accountability and to ensure that the organization adequately
14 performs the organization's functions and duties. The organization
15 shall fully cooperate with the commission in the commission's
16 oversight and investigatory functions. The commission may take
17 appropriate action against an organization that does not adequately
18 perform the organization's functions or duties or does not comply
19 with this section, including decertifying the organization or
20 assessing an administrative penalty against the organization. The
21 commission by rule shall adopt procedures governing
22 decertification of an independent organization, selecting and
23 certifying a successor organization, and transferring assets to the
24 successor organization to ensure continuity of operations in the
25 region. The commission may not implement, by order or by rule, a
26 requirement that is contrary to an applicable federal law or rule.

27 (g) To maintain certification as an independent

1 organization under this section, an organization's governing body
2 must be composed of persons specified by this section and selected
3 in accordance with formal bylaws or protocols of the organization.
4 The bylaws or protocols must be approved by the commission and must
5 reflect the input of the commission. The bylaws must specify the
6 process by which appropriate stakeholders elect members and, for
7 unaffiliated members, prescribe professional qualifications for
8 selection as a member. The bylaws must require that every member of
9 the governing body be a resident of this state and prohibit a
10 legislator from serving as a member. The bylaws may require the use
11 of a professional search firm to identify candidates for
12 ~~[membership of unaffiliated]~~ members described by Subdivisions
13 (4), (5), and (6). The process must allow for commission input in
14 identifying candidates. The governing body must be composed of:

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

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

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

21 (4) six market participants elected by their
22 respective market segments to serve two-year ~~[one-year]~~ terms,
23 with:

24 (A) one representing independent generators;

25 (B) one representing investor-owned utilities;

26 (C) one representing power marketers;

27 (D) one representing retail electric providers

1 who may not be affiliated with an independent generator;

2 (E) one representing municipally owned
3 utilities; and

4 (F) one representing electric cooperatives;

5 (5) one member representing industrial consumer
6 interests and elected by the industrial consumer market segment to
7 serve a two-year [~~one-year~~] term;

8 (6) one member representing large commercial consumer
9 interests selected in accordance with the bylaws to serve a
10 two-year [~~one-year~~] term; and

11 (7) five members unaffiliated with any market segment
12 [~~and selected by the other members of the governing body~~] to serve
13 two-year [~~three-year~~] terms who must be:

14 (A) selected by the other members of the
15 governing body;

16 (B) approved by the commission; and

17 (C) approved by a majority of the governor, the
18 lieutenant governor, and the speaker of the house of
19 representatives.

20 (g-1) The bylaws of an independent organization must
21 require that the [~~The~~] presiding officer and vice presiding officer
22 of the governing body must be [~~one of the~~] members described by
23 Subsection (g)(7).

24 (g-2) A person does not qualify for selection as a member of
25 the governing body of an independent organization under Subsection
26 (g)(3) or (7) if the person is required to register as a lobbyist
27 under Chapter 305, Government Code. In making a selection under

1 Subsection (g)(3) or (7), the members of the governing body shall
2 give preference to a person who has executive-level business
3 experience representing a range of industries.

4 (g-3) Members of the governing body of an independent
5 organization certified under this section must serve staggered
6 terms. A member described by Subsection (g)(4) or (5) must serve a
7 term that expires in an even-numbered year. A member described by
8 Subsection (g)(6) or (7) must serve a term that expires in an
9 odd-numbered year. As soon as practicable after the date a member
10 of the governing body's term expires, the appropriate authority
11 must appoint or arrange for the election of a replacement in the
12 same manner as the original appointment or election. If a vacancy
13 occurs on the governing body, the appropriate authority must
14 appoint or arrange for the election of a successor in the same
15 manner as the original appointment or election to serve for the
16 remainder of the unexpired term.

17 (g-4) To maintain certification as an independent
18 organization under this section, the organization's governing body
19 must establish and implement a formal process for adopting new
20 protocols or revisions to existing protocols. The process must
21 require that new or revised protocols may not take effect until the
22 commission approves a market impact statement describing the new or
23 revised protocols.

24 SECTION 4. An independent organization certified under
25 Section 39.151, Utilities Code, by the Public Utility Commission of
26 Texas before September 1, 2021, shall modify the organization to
27 comply with Section 39.151, Utilities Code, as amended by this Act,

1 not later than September 1, 2021. After September 1, 2021, the
2 Public Utility Commission of Texas may decertify an independent
3 organization that does not comply with Section 39.151, Utilities
4 Code, as amended by this Act.

5 SECTION 5. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2021.