

By: Hancock

S.B. No. 2

A BILL TO BE ENTITLED

AN ACT

1
2 relating to independent organizations certified to manage power
3 regions.

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

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

8 (d) The commission shall adopt and enforce rules relating to
9 the reliability of the regional electrical network and accounting
10 for the production and delivery of electricity among generators and
11 all other market participants, or may delegate to an independent
12 organization responsibilities for adopting [~~establishing~~] or
13 enforcing such rules. Rules [~~Any such rules~~] adopted by an
14 independent organization and [~~any~~] enforcement actions taken by the
15 organization under delegated authority from the commission are
16 subject to commission oversight and review and may not take effect
17 before receiving commission approval. An independent organization
18 certified by the commission is directly responsible and accountable
19 to the commission. The commission has complete authority to
20 oversee and investigate the organization's finances, budget, and
21 operations as necessary to ensure the organization's
22 accountability and to ensure that the organization adequately
23 performs the organization's functions and duties. The organization
24 shall fully cooperate with the commission in the commission's

1 oversight and investigatory functions. The commission may take
2 appropriate action against an organization that does not adequately
3 perform the organization's functions or duties or does not comply
4 with this section, including decertifying the organization or
5 assessing an administrative penalty against the organization. The
6 commission by rule shall adopt procedures governing
7 decertification of an independent organization, selecting and
8 certifying a successor organization, and transferring assets to the
9 successor organization to ensure continuity of operations in the
10 region. The commission may not implement, by order or by rule, a
11 requirement that is contrary to an applicable federal law or rule.

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

27 (1) the chairman of the commission as an ex officio

1 nonvoting member;

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

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

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

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

12 (B) one representing investor-owned utilities;

13 (C) one representing power marketers;

14 (D) one representing retail electric providers;

15 (E) one representing municipally owned
16 utilities; and

17 (F) one representing electric cooperatives;

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

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

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

27 (g-1) The bylaws of an independent organization must

1 require that the [~~The~~] presiding officer of the governing body must
2 be:

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

4 and

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

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

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

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