

Suspending limitations on conference committee
jurisdiction, S.B. No. 2 (Hancock/Paddie)

By: Hancock

S.R. No. 564

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 87th Legislature, Regular Session, 2021, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill 2 (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) to consider and take action on the following matters:

(1) Senate Rules 12.03(1), (3), and (4) are suspended to permit the committee to amend text not in disagreement, to add text on a matter not in disagreement, and to add text on a matter not included in either the house or senate version of the bill in proposed SECTION 3 of the bill, in amended Sections 39.151(g) and (g-1), Utilities Code, and added Sections 39.151(g-2), (g-3), and (g-4), Utilities Code, to read as follows:

(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.

Explanation: This change is necessary to provide for the composition of the governing body of an independent organization certified under Section 39.151, Utilities Code, for the Electric Reliability Council of Texas power region and to establish requirements relating to the eligibility and selection of members of the governing body.

(2) Senate Rule 12.03(2) is suspended to permit the committee to omit text not in disagreement in SECTION 3 of the senate engrossment of Senate Bill 2 and the corresponding bill as the bill was amended by the house in added Section 39.151(g-2), Utilities Code. The omitted text reads:

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

(1) shall give preference to a person who has executive-level business experience representing a range of industries; and

(2) may consider a person recommended by the legislature.

(g-2) A person does not qualify for selection as a member

of the governing body of an independent organization under Subsection (g)(3) or (7) if the person is required to register as a lobbyist under Chapter 305, Government Code. In making a selection under Subsection (g)(3) or (7), the members of the governing body shall give preference to a person who has executive-level business experience representing a range of industries.

Explanation: The change is necessary to omit the qualification and selection requirements.

(3) Senate Rule 12.03(2) is suspended to permit the committee to omit text not in disagreement in SECTION 3 of the senate engrossment of Senate Bill 2 and the corresponding bill as the bill was amended by the house in added Section 39.151(g-3), Utilities Code. The omitted text reads:

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

Explanation: The change is necessary to omit the term and vacancy requirements.

(4) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding the following new SECTION to the bill:

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).

Explanation: The addition is necessary to provide for the creation of a committee to select the members of a governing body of an independent organization certified under Section 39.151, Utilities Code, for the Electric Reliability Council of Texas power region.

(5) Senate Rule 12.03(2) is suspended to permit the committee to omit text not in disagreement in SECTION 4 of the senate engrossment of Senate Bill 2 and the corresponding bill as the bill was amended by the house that would require an independent organization certified by the Public Utility Commission of Texas under Section 39.151, Utilities Code, to modify the organization to comply with Section 39.151, Utilities Code, as amended by the bill, not later than September 1, 2021. The omitted language reads: "not later than September 1, 2021".

Explanation: The omission is necessary to provide sufficient time for the ERCOT Board Selection Committee to be formed and for the committee to select members of the governing body of the independent organization certified under Section 39.151, Utilities Code, for the Electric Reliability Council of Texas power region.

S.R. No. 564

President of the Senate

I hereby certify that the
above Resolution was adopted by
the Senate on May 30, 2021, by
the following vote: Yeas 27,
Nays 4.

Secretary of the Senate