

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

By: Hancock

S.R. No. 564

R E S O L U T I O N

1 BE IT RESOLVED by the Senate of the State of Texas, 87th
2 Legislature, Regular Session, 2021, That Senate Rule 12.03 be
3 suspended in part as provided by Senate Rule 12.08 to enable the
4 conference committee appointed to resolve the differences on Senate
5 Bill 2 (the governance of the Public Utility Commission of Texas,
6 the Office of Public Utility Counsel, and an independent
7 organization certified to manage a power region) to consider and
8 take action on the following matters:

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

16 (g) To maintain certification as an independent
17 organization for the ERCOT power region under this section, an
18 organization's governing body must be composed of persons selected
19 by the ERCOT board selection committee [~~specified by this section~~
20 ~~and selected in accordance with formal bylaws or protocols of the~~
21 ~~organization~~].

22 (g-1) The independent organization's bylaws or protocols
23 must be approved by the commission and must reflect the input of the
24 commission. [~~The bylaws must specify the process by which~~

1 ~~appropriate stakeholders elect members and, for unaffiliated~~
2 ~~members, prescribe professional qualifications for selection as a~~
3 ~~member.]~~ The bylaws must require that every member of the governing
4 body be a resident of this state and must prohibit a legislator from
5 serving as a member [~~the use of a professional search firm to~~
6 ~~identify candidates for membership of unaffiliated members. The~~
7 ~~process must allow for commission input in identifying candidates].~~

8 The governing body must be composed of:

9 (1) the chairman of the commission as an ex officio
10 nonvoting member;

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

13 (3) the chief executive officer of the independent
14 organization as an ex officio nonvoting [~~voting~~] member; and

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

18 (A) finance;

19 (B) business;

20 (C) engineering, including electrical
21 engineering;

22 (D) trading;

23 (E) risk management;

24 (F) law; or

25 (G) electric market design [~~six market~~

26 ~~participants elected by their respective market segments to serve~~

27 ~~one-year terms, with:~~

1 ~~[(A) one representing independent generators,~~
2 ~~[(B) one representing investor-owned utilities,~~
3 ~~[(C) one representing power marketers,~~
4 ~~[(D) one representing retail electric providers,~~
5 ~~[(E) one representing municipally owned~~
6 ~~utilities, and~~
7 ~~[(F) one representing electric cooperatives,~~
8 ~~[(5) one member representing industrial consumer~~
9 ~~interests and elected by the industrial consumer market segment to~~
10 ~~serve a one-year term,~~
11 ~~[(6) one member representing large commercial~~
12 ~~consumer interests selected in accordance with the bylaws to serve~~
13 ~~a one-year term; and~~
14 ~~[(7) five members unaffiliated with any market segment~~
15 ~~and selected by the other members of the governing body to serve~~
16 ~~three-year terms].~~

17 (g-2) Members ~~[(g-1) The presiding officer]~~ of the
18 governing body are entitled to receive a salary for their service
19 ~~[must be one of the members described by Subsection (g)(7)].~~

20 (g-3) A person does not qualify for selection as a member of
21 the governing body of an independent organization for the ERCOT
22 power region if the person has a fiduciary duty or assets in the
23 electricity market for that region.

24 (g-4) To maintain certification as an independent
25 organization under this section, the organization's governing body
26 may not include more than two members who are employed by an
27 institution of higher education, as defined by Section 61.003,

1 Education Code, in a professorial role.

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

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

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

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

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

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

1 give preference to a person who has executive-level business
2 experience representing a range of industries.

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

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

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

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

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

1 the bill:

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

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

6 (1) one member appointed by the governor;

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

8 and

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

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

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

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

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

25 Explanation: The addition is necessary to provide for the
26 creation of a committee to select the members of a governing body of
27 an independent organization certified under Section 39.151,

1 Utilities Code, for the Electric Reliability Council of Texas power
2 region.

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

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