

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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H.B. No. 1520

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the recovery and securitization of certain  
3 extraordinary costs incurred by certain gas utilities; providing  
4 authority to issue bonds and impose fees and assessments.

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

6 SECTION 1. Section 1232.002, Government Code, is amended to  
7 read as follows:

8 Sec. 1232.002. PURPOSE. The purpose of this chapter is to  
9 provide a method of financing for:

10 (1) the acquisition or construction of buildings;

11 [~~and~~]

12 (2) the purchase or lease of equipment by executive or  
13 judicial branch state agencies; and

14 (3) customer rate relief bonds authorized by the  
15 Railroad Commission of Texas.

16 SECTION 2. Section 1232.066(a), Government Code, is amended  
17 to read as follows:

18 (a) The board's authority under this chapter is limited to  
19 the financing of:

20 (1) the acquisition or construction of a building;

21 (2) the purchase or lease of equipment; [~~or~~]

22 (3) stranded costs of a municipal power agency; or

23 (4) customer rate relief bonds approved by the  
24 Railroad Commission of Texas.

1 SECTION 3. Subchapter C, Chapter 1232, Government Code, is  
2 amended by adding Section 1232.1072 to read as follows:

3 Sec. 1232.1072. ISSUANCE OF OBLIGATIONS FOR FINANCING  
4 CUSTOMER RATE RELIEF BONDS. (a) The authority, either directly or  
5 by means of a financing entity established by the authority, may  
6 issue obligations or other evidences of indebtedness for financing  
7 customer rate relief bonds approved under Subchapter I, Chapter  
8 104, Utilities Code.

9 (b) On a request to the authority from the Railroad  
10 Commission of Texas, the authority shall:

11 (1) issue obligations or other evidences of  
12 indebtedness in the amount of the requested customer rate relief  
13 bonds, plus the issuance costs; and

14 (2) grant to the Railroad Commission of Texas the  
15 proceeds of the obligations or evidences of indebtedness described  
16 by Subdivision (1).

17 (c) The request from the Railroad Commission of Texas  
18 described by Subsection (b) must include a statement of the payment  
19 terms for recovering customer rate relief costs.

20 (d) Obligations or evidences of indebtedness the authority  
21 issues under this section must be created under financing orders  
22 issued by the Railroad Commission of Texas. The financing orders  
23 must authorize the authority to create legally isolated,  
24 bankruptcy-remote financing entities to hold customer rate relief  
25 property. The authority may establish a financing entity  
26 authorized by a financing order.

27 (e) Obligations or evidences of indebtedness the authority

1 issues under this section for each approved customer rate relief  
2 financing must include, as part of the financing costs of the  
3 financing, the administrative costs related to the financing.

4 (f) Obligations or evidences of indebtedness the authority  
5 issues under this section must be secured by:

6 (1) customer rate relief property, as defined by  
7 Section 104.362, Utilities Code; and

8 (2) customer rate relief charges, as defined by  
9 Section 104.362, Utilities Code, that are nonbypassable, as defined  
10 by that section, imposed by the authority on customers receiving  
11 natural gas services provided by the gas utility, as defined by that  
12 section, that is making the request to recover a regulatory asset  
13 under Section 104.365, Utilities Code.

14 (g) The customer rate relief property and customer rate  
15 relief charges described by Subsection (f) must be consistent with  
16 the customer rate relief recovery terms stated in the gas utility's  
17 request to recover a regulatory asset under Section 104.365,  
18 Utilities Code, unless otherwise approved by the Railroad  
19 Commission of Texas.

20 (h) An obligation or evidence of indebtedness the authority  
21 issues under this section is not a debt of this state, the Railroad  
22 Commission of Texas, or a gas utility.

23 (i) The Railroad Commission of Texas shall provide to the  
24 authority assistance necessary to ensure that the customer rate  
25 relief charges described by Subsection (f) are collected and  
26 enforced, either directly or by using the assistance and powers of  
27 the gas utility requesting to recover a regulatory asset under

1 Section 104.365, Utilities Code, as servicer.

2 (j) The authority and the Railroad Commission of Texas have  
3 all the powers necessary to perform the duties and responsibilities  
4 described by this section. This section shall be interpreted  
5 broadly in a manner consistent with the most cost-effective  
6 financing of customer rate relief related costs.

7 (k) Obligations or evidences of indebtedness issued by the  
8 authority under this section may be structured so that any interest  
9 on the obligations or evidences of indebtedness is excluded from  
10 gross income for federal income tax purposes. Any interest on the  
11 obligations or evidences of indebtedness is not subject to taxation  
12 by and may not be included as part of the measurement of a tax by  
13 this state or a political subdivision of this state.

14 (l) The authority shall make periodic reports to the  
15 Railroad Commission of Texas and the public regarding each  
16 financing made under this section.

17 SECTION 4. Section 1232.108, Government Code, is amended to  
18 read as follows:

19 Sec. 1232.108. LEGISLATIVE AUTHORIZATION REQUIRED. Except  
20 as permitted by Section 1232.1072, 1232.109, 2166.452, or 2166.453,  
21 before the board may issue and sell bonds, the legislature by the  
22 General Appropriations Act or other law must have authorized:

23 (1) the specific project for which the bonds are to be  
24 issued and sold; and

25 (2) the estimated cost of the project or the maximum  
26 amount of bonded indebtedness that may be incurred by the issuance  
27 and sale of bonds for the project.

1 SECTION 5. Chapter 104, Utilities Code, is amended by  
2 adding Subchapter I to read as follows:

3 SUBCHAPTER I. CUSTOMER RATE RELIEF BONDS

4 Sec. 104.361. PURPOSE; RAILROAD COMMISSION DUTY. (a) The  
5 purpose of this subchapter is to reduce the cost that customers  
6 would otherwise experience because of extraordinary costs that gas  
7 utilities incur to secure gas supply and provide service during  
8 natural and man-made disasters, system failures, or other  
9 catastrophic events, and to restore gas utility systems after those  
10 types of events, by providing securitization financing for gas  
11 utilities to recover those costs. The securitization financing  
12 mechanism authorized by this subchapter will:

13 (1) provide rate relief to customers by extending the  
14 period during which the extraordinary costs described by Subsection  
15 (a) are recovered from customers; and

16 (2) support the financial strength and stability of  
17 gas utility companies.

18 (b) The railroad commission shall ensure that  
19 securitization provides tangible and quantifiable benefits to  
20 customers, greater than would have been achieved absent the  
21 issuance of customer rate relief bonds.

22 Sec. 104.362. DEFINITIONS. In this subchapter:

23 (1) "Ancillary agreement" means a financial  
24 arrangement entered into in connection with the issuance or payment  
25 of customer rate relief bonds that enhances the marketability,  
26 security, or creditworthiness of customer rate relief bonds,  
27 including a bond, insurance policy, letter of credit, reserve

1 account, surety bond, interest rate or currency swap arrangement,  
2 interest rate lock agreement, forward payment conversion  
3 agreement, other hedging arrangement, or liquidity or credit  
4 support arrangement.

5 (2) "Assignee" means any legally recognized entity to  
6 which an interest in customer rate relief property is transferred,  
7 other than as security. The term includes a corporation, limited  
8 liability company, public authority, trust, general partnership,  
9 limited partnership, or other financing entity.

10 (3) "Authority" means the Texas Public Finance  
11 Authority.

12 (4) "Bond administrative expenses" means expenses  
13 incurred to administer customer rate relief bonds issued under this  
14 subchapter, including fees for paying agents, trustees, and  
15 attorneys, and for paying for other professional services necessary  
16 to ensure compliance with applicable state or federal law.

17 (5) "Bond obligations" means the principal of a  
18 customer rate relief bond and any premium and interest on a customer  
19 rate relief bond issued under this subchapter, together with any  
20 amount owed under a related ancillary agreement or credit  
21 agreement.

22 (6) "Credit agreement" means a loan agreement,  
23 revolving credit agreement, agreement establishing a line of  
24 credit, or similar financing arrangement.

25 (7) "Customer rate relief bonds" means bonds, notes,  
26 certificates, or other evidences of indebtedness or ownership the  
27 proceeds of which are used directly or indirectly to recover,

1 finance, or refinance regulatory assets approved by the railroad  
2 commission, including extraordinary costs and related financing  
3 costs, and that are:

4 (A) issued by an assignee under a financing  
5 order; and

6 (B) payable from and secured by customer rate  
7 relief property and amounts on deposit in the obligation trust fund  
8 to the extent provided by the applicable financing order.

9 (8) "Customer rate relief charges" means the amounts  
10 authorized by the railroad commission as nonbypassable charges to  
11 repay, finance, or refinance regulatory assets, including  
12 extraordinary costs, financing costs, and other costs authorized by  
13 the financing order:

14 (A) imposed on and included in customer bills of  
15 a gas utility that has received a regulatory asset determination  
16 under Section 104.365;

17 (B) collected in full by a gas utility that has  
18 received a regulatory asset determination under Section 104.365, or  
19 its successors or assignees, or a collection agent, as servicer,  
20 separate and apart from the gas utility's base rates; and

21 (C) paid by all existing or future customers  
22 receiving service from a gas utility that has received a regulatory  
23 asset determination under Section 104.365 or its successors or  
24 assignees, even if a customer elects to purchase gas from an  
25 alternative gas supplier.

26 (9) "Customer rate relief property" means property  
27 described by Section 104.367.

1           (10) "Financing costs" means any of the following:

2                   (A) interest and acquisition, defeasance, or  
3 redemption premiums that are payable on customer rate relief bonds;

4                   (B) a payment required under an ancillary  
5 agreement and an amount required to fund or replenish reserve or  
6 other accounts established under the terms of an indenture,  
7 ancillary agreement, or other financing document pertaining to  
8 customer rate relief bonds;

9                   (C) issuance costs and ongoing costs related to  
10 supporting, repaying, servicing, or refunding customer rate relief  
11 bonds, including servicing fees, accounting and auditing fees,  
12 trustee fees, legal fees and expenses, consulting fees,  
13 administrative fees, printing fees, financial advisor fees and  
14 expenses, Securities and Exchange Commission registration fees,  
15 issuer fees, placement and underwriting fees, capitalized  
16 interest, overcollateralization funding requirements, rating  
17 agency fees, stock exchange listing and compliance fees, filing  
18 fees, and any other bond administration expenses; and

19                   (D) the costs to the railroad commission of  
20 acquiring professional services for the purpose of evaluating  
21 extraordinary costs under this subchapter.

22           (11) "Financing order" means an order adopted under  
23 Section 104.366 approving the issuance of customer rate relief  
24 bonds and the creation of customer rate relief property and  
25 associated customer rate relief charges for the recovery of  
26 regulatory assets, including extraordinary costs, related  
27 financing costs, and other costs authorized by the financing order.



1           (12) "Financing party" means a holder of customer rate  
2 relief bonds, including a trustee, collateral agent, any party  
3 under an ancillary agreement, or other person acting for the  
4 holder's benefit.

5           (13) "Gas utility" means:

6                   (A) an operator of natural gas distribution  
7 pipelines that delivers and sells natural gas to the public and that  
8 is subject to the railroad commission's jurisdiction under Section  
9 102.001; or

10                   (B) an operator that transmits, transports,  
11 delivers, or sells natural gas or synthetic natural gas to  
12 operators of natural gas distribution pipelines and whose rates for  
13 those services are established by the railroad commission in a rate  
14 proceeding filed under this chapter.

15           (14) "Nonbypassable" means a charge that may not be  
16 offset by any credit.

17           (15) "Normalized market pricing" means the average  
18 monthly pricing at the Henry Hub for the three months immediately  
19 preceding the month during which extraordinary costs were incurred,  
20 plus contractual adders to the index price and other non-indexed  
21 gas procurement costs.

22           (16) "Regulatory asset" includes extraordinary costs:

23                   (A) recorded by a gas utility in the utility's  
24 books and records in accordance with the uniform system of accounts  
25 prescribed for natural gas companies subject to the provisions of  
26 the Natural Gas Act (15 U.S.C. Section 717 et seq.) by the Federal  
27 Energy Regulatory Commission and generally accepted accounting

1 principles; or

2 (B) classified as a receivable or financial asset  
3 under international financial reporting standards under the  
4 railroad commission's authorization in the Notice of Authorization  
5 for Regulatory Asset Accounting for Local Distribution Companies  
6 Affected by the February 2021 Winter Weather Event issued February  
7 13, 2021, or any later notice or order issued by the railroad  
8 commission for other similarly authorized natural or man-made  
9 disasters or system failure events.

10 Sec. 104.363. EXTRAORDINARY COSTS. For the purposes of  
11 this subchapter, extraordinary costs are the reasonable and  
12 necessary costs, including carrying costs, placed in a regulatory  
13 asset and approved by the railroad commission in a regulatory asset  
14 determination under Section 104.365.

15 Sec. 104.364. JURISDICTION AND POWERS OF RAILROAD  
16 COMMISSION AND OTHER REGULATORY AUTHORITIES. (a) The railroad  
17 commission may authorize the issuance of customer rate relief bonds  
18 if the requirements of Section 104.366 are met.

19 (b) The railroad commission may assess to a gas utility  
20 costs associated with administering this subchapter. Assessments  
21 must be recovered from rate-regulated customers as part of gas  
22 cost.

23 (c) The railroad commission has exclusive, original  
24 jurisdiction to issue financing orders that authorize the creation  
25 of customer rate relief property, customer rate relief charges to  
26 service customer rate relief bonds, and financing costs. Customer  
27 rate relief charges, if authorized by the railroad commission

1 through a financing order in that commission's sole discretion,  
2 must be imposed pursuant to customer rate relief property and not by  
3 a gas utility.

4 (d) Except as provided by Subsection (c), this subchapter  
5 does not limit or impair a regulatory authority's plenary  
6 jurisdiction over the rates, charges, and services rendered by gas  
7 utilities in this state under Chapter 102.

8 Sec. 104.365. REGULATORY ASSET DETERMINATION. (a) The  
9 railroad commission, on application of a gas utility to recover a  
10 regulatory asset, shall determine the regulatory asset amount to be  
11 recovered by the gas utility.

12 (b) A gas utility desiring to participate in the customer  
13 rate relief bond process under a financing order must file an  
14 application with the railroad commission not later than the 90th  
15 day after the date of the conclusion of the event for which  
16 regulatory asset recovery is requested. The railroad commission  
17 shall determine an application date deadline consistent with this  
18 subsection.

19 (c) Notwithstanding the deadline provided by Subsection  
20 (b), a gas utility desiring to participate in the customer rate  
21 relief bond process under a financing order by requesting recovery  
22 of a regulatory asset relating to the February 2021 winter storm may  
23 file an application with the railroad commission on or before the  
24 60th day after the effective date of the Act enacting this  
25 subchapter.

26 (d) If the railroad commission does not make a final  
27 determination regarding the regulatory asset amount to be recovered

1 by a gas utility before the 91st day after the gas utility files the  
2 application, the railroad commission is considered to have approved  
3 the regulatory asset amount requested by the gas utility.

4 (e) The regulatory asset determination is not subject to  
5 reduction, impairment, or adjustment by further action of the  
6 railroad commission, except as authorized by Section 104.370.

7 (f) The regulatory asset determination is not subject to  
8 rehearing by the railroad commission and may be appealed only to a  
9 Travis County district court by a party to the proceeding. The  
10 appeal must be filed not later than the 15th day after the date the  
11 order is signed by the railroad commission.

12 (g) The judgment of the district court may be reviewed only  
13 by direct appeal to the Supreme Court of Texas. The appeal must be  
14 filed not later than the 15th day after the date of entry of  
15 judgment.

16 (h) All appeals shall be heard and determined by the  
17 district court and the Supreme Court of Texas as expeditiously as  
18 possible with lawful precedence over other matters. Review on  
19 appeal shall be based solely on the record before the railroad  
20 commission and briefs to the court and limited to whether the  
21 financing order:

22 (1) complies with the constitution and laws of this  
23 state and the United States; and

24 (2) is within the authority of the railroad commission  
25 to issue under this subchapter.

26 (i) The railroad commission by order shall establish a  
27 schedule, filing requirements, and a procedure for determining the

1 prudence of the costs included in a gas utility's regulatory asset.

2 (j) To the extent a gas utility subject to this subchapter  
3 receives insurance proceeds, governmental grants, or other sources  
4 of funding that compensate or otherwise reimburse or indemnify the  
5 gas utility for extraordinary costs following the issuance of  
6 customer rate relief bonds, the gas utility may record the amount in  
7 a regulatory liability account and that amount shall be reviewed in  
8 a future proceeding. If an audit conducted under a valid gas  
9 purchase agreement identifies a change of greater than five percent  
10 to the total amount of the gas supply costs incurred during the  
11 event for which regulatory asset recovery was approved, the gas  
12 utility may record the amount in a regulatory asset or regulatory  
13 liability account and that amount shall be reviewed for recovery in  
14 a future proceeding.

15 Sec. 104.366. FINANCING ORDERS AND ISSUANCE OF CUSTOMER  
16 RATE RELIEF BONDS. (a) If the railroad commission determines that  
17 customer rate relief bond financing for extraordinary costs is the  
18 most cost-effective method of funding regulatory asset  
19 reimbursements to be made to gas utilities, the railroad  
20 commission, after the final resolution of all applications filed  
21 under Section 104.365, may request the authority to issue customer  
22 rate relief bonds on the railroad commission's behalf. Before  
23 making the request, the railroad commission must issue a financing  
24 order that complies with this section.

25 (b) To make the determination described by Subsection (a),  
26 the railroad commission must find that the proposed structuring,  
27 expected pricing, and proposed financing costs of the customer rate

1 relief bonds are reasonably expected to provide benefits to  
2 customers by comparing:

3 (1) the net present value of the costs to customers  
4 resulting from the issuance of customer rate relief bonds; and

5 (2) the costs that would result from the application  
6 of conventional methods of financing or recovering gas utility  
7 extraordinary costs and other costs authorized by a financing  
8 order.

9 (c) The financing order must:

10 (1) include a finding that the use of the  
11 securitization financing mechanism is in the public interest and  
12 consistent with the purposes of this subchapter;

13 (2) detail the total amount of the regulatory asset  
14 determinations to be included in the customer rate relief bond  
15 issuance;

16 (3) authorize the recovery of any tax obligation of  
17 the gas utilities arising or resulting from:

18 (A) receipt of customer rate relief bond  
19 proceeds; or

20 (B) collection or remittance of customer rate  
21 relief charges through the gas utilities' gas cost recovery  
22 mechanism or other means that the railroad commission determines  
23 reasonable;

24 (4) authorize the authority's issuance of customer  
25 rate relief bonds through one or more legally isolated,  
26 bankruptcy-remote financing entities established by the authority;

27 (5) include a statement of:

1           (A) the aggregated regulatory asset  
2 determination to be included in the principal amount of the  
3 customer rate relief bonds, not to exceed \$10 billion for any  
4 separate bond issue; and

5           (B) the maximum scheduled final maturity of the  
6 customer rate relief bonds, not to exceed 30 years, except that the  
7 legal final maturity may be longer based on rating agency and market  
8 considerations;

9           (6) provide for the imposition, collection, and  
10 mandatory periodic formulaic adjustment of customer rate relief  
11 charges in accordance with Section 104.370 by all gas utilities for  
12 which a regulatory asset determination has been made under Section  
13 104.365 to guarantee that the bonds will be paid in full;

14           (7) authorize the creation of customer rate relief  
15 property in favor of the authority and the authority's transfer of  
16 the property;

17           (8) direct the authority to disperse the proceeds of  
18 customer rate relief bonds to gas utilities for which a regulatory  
19 asset determination has been made under Section 104.365 and include  
20 the amounts to be distributed;

21           (9) provide that customer rate relief charges be  
22 collected and allocated among customers of each utility for which a  
23 regulatory determination has been made under Section 104.365  
24 through uniform monthly volumetric charges to be paid by customers  
25 as a component of the gas utility's gas cost or in another manner  
26 that the railroad commission determines reasonable; and

27           (10) reflect the commitment made by each gas utility

1 receiving proceeds that the proceeds are in lieu of recovery of  
2 those costs through the regular ratemaking process or other  
3 mechanism to the extent the costs are reimbursed to the gas utility  
4 by customer rate relief bond financing proceeds.

5 (d) The principal amount determined by the railroad  
6 commission may be increased to include an amount sufficient to:

7 (1) pay the financing costs for issuance;

8 (2) reimburse the authority for any costs incurred for  
9 the issuance;

10 (3) provide a bond reserve fund; and

11 (4) capitalize interest for the period determined  
12 necessary by the railroad commission.

13 (e) The authority, consistent with this subchapter and the  
14 terms of the financing order, shall:

15 (1) issue customer rate relief bonds at the railroad  
16 commission's request, in accordance with the requirements of  
17 Chapter 1232, Government Code, and other provisions of Title 9,  
18 Government Code, that apply to bond issuance by a state agency; and

19 (2) determine the methods of sale, types of bonds,  
20 bond forms, maximum interest rates, and other terms of the customer  
21 rate relief bonds that in the authority's judgment best achieve the  
22 economic goals of the financing order and effect the financings at  
23 the lowest practicable cost.

24 (f) The authority shall establish legally isolated,  
25 bankruptcy-remote financing entities and may enter into credit  
26 agreements or ancillary agreements in connection with the issuance  
27 of customer rate relief bonds.



1       (g) The financing order becomes effective in accordance  
2 with its terms. The financing order, together with the customer  
3 rate relief property and the customer rate relief charges  
4 authorized by the financing order, is irrevocable and not subject  
5 to reduction, impairment, or adjustment by further action of the  
6 railroad commission, except as provided under Subsection (i) and  
7 authorized by Section 104.370.

8       (h) The railroad commission shall issue a financing order  
9 under this section not later than the 90th day following the date of  
10 the conclusion of all proceedings filed under Section 104.365.

11       (i) A financing order is not subject to rehearing by the  
12 railroad commission. A financing order may be appealed only to a  
13 Travis County district court by a party to the proceeding. The  
14 appeal must be filed not later than the 15th day after the date the  
15 financing order is signed by the railroad commission.

16       (j) The judgment of the district court may be reviewed only  
17 by direct appeal to the Supreme Court of Texas. The appeal must be  
18 filed not later than the 15th day after the date of entry of  
19 judgment.

20       (k) All appeals shall be heard and determined by the  
21 district court and the Supreme Court of Texas as expeditiously as  
22 possible with lawful precedence over other matters. Review on  
23 appeal shall be based solely on the record before the railroad  
24 commission and briefs to the court and is limited to whether the  
25 financing order:

26               (1) complies with the constitution and laws of this  
27 state and the United States; and

1           (2) is within the authority of the railroad commission  
2 to issue under this subchapter.

3           (1) The authority shall issue customer rate relief bonds not  
4 later than the 45th day after receipt of a financing order issued  
5 under this section.

6           (m) The authority shall deliver customer rate relief bond  
7 proceeds net of upfront financing costs to each gas utility  
8 sufficient to reimburse the gas utility the regulatory asset amount  
9 determined to be reasonable under Section 104.365 not later than  
10 the 15th day after the date of issuance of the customer rate relief  
11 bonds.

12           (n) For the weather-related event that occurred in February  
13 2021, the authority shall deliver customer rate relief bond  
14 proceeds net of upfront financing costs to each gas utility no later  
15 than December 31, 2021. This subsection expires September 1, 2023.

16           Sec. 104.367. PROPERTY RIGHTS. (a) Customer rate relief  
17 bonds are solely the obligation of the assignee or issuing  
18 financing entity and are not a debt of a gas utility or a debt or a  
19 pledge of the faith and credit of this state or any political  
20 subdivision of this state.

21           (b) Customer rate relief bonds are nonrecourse to the credit  
22 or any assets of this state or the authority.

23           (c) The rights and interests of the authority or the  
24 authority's successor under a financing order, including the right  
25 to impose and receive customer rate relief charges authorized in  
26 the financing order, are only contract rights until first  
27 transferred to an assignee or pledged in connection with the

1 issuance of the customer rate relief bonds, at which time the rights  
2 and interests become customer rate relief property.

3 (d) Customer rate relief property constitutes a present  
4 property right for purposes of contracts concerning the sale or  
5 pledge of property, notwithstanding that the imposition and  
6 collection of customer rate relief charges depends on further acts  
7 of the gas utility or others that have not yet occurred. The  
8 financing order remains in effect, and the customer rate relief  
9 property continues to exist, for the same period as the pledge of  
10 the state described by Section 104.374.

11 (e) All revenue and collections resulting from customer  
12 rate relief charges constitute proceeds only of a property right  
13 arising from the financing order.

14 (f) An amount owed by the authority or an issuer under a  
15 credit agreement is payable from and secured by the customer rate  
16 relief property, including customer rate relief charges and amounts  
17 to the extent provided in the proceedings authorizing the credit  
18 agreement.

19 Sec. 104.368. PROPERTY INTEREST NOT SUBJECT TO SETOFF,  
20 COUNTERCLAIM, SURCHARGE, OR DEFENSE. The interest of an assignee  
21 or pledgee in customer rate relief property, including the revenue  
22 and collections arising from customer rate relief charges, is not  
23 subject to setoff, counterclaim, surcharge, or defense by the gas  
24 utility or any other person or in connection with the bankruptcy of  
25 the gas utility, the authority, or any other entity. A financing  
26 order remains in effect and unabated notwithstanding the bankruptcy  
27 of the gas utility or authority, or any successor or assignee of the

1 gas utility or authority.

2 Sec. 104.369. CUSTOMER RATE RELIEF CHARGES NONBYPASSABLE.

3 A financing order must include terms ensuring that the imposition  
4 and collection of the customer rate relief charges authorized in  
5 the order are nonbypassable.

6 Sec. 104.370. TRUE-UP MECHANISM. (a) A financing order  
7 must include a formulaic true-up charge adjustment mechanism that  
8 requires that the customer rate relief charges be reviewed and  
9 adjusted at least annually, at time periods and frequencies  
10 provided in the financing order, to:

11 (1) correct any overcollections or undercollections  
12 of the preceding 12 months; and

13 (2) ensure the expected recovery of amounts sufficient  
14 to provide for the timely payment of upcoming scheduled customer  
15 rate relief bond payments and financing costs.

16 (b) True-up charge adjustments must become effective not  
17 later than the 30th day after the date the railroad commission  
18 receives a true-up charge adjustment letter from the gas utility or  
19 replacement servicer notifying the railroad commission of the  
20 pending adjustment.

21 (c) Any administrative review of true-up charge adjustments  
22 must be limited to notifying the servicer of mathematical or  
23 clerical errors in the calculation. The servicer may correct the  
24 error and refile a true-up charge adjustment letter, with the  
25 adjustment becoming effective as soon as practicable but not later  
26 than the 30th day after the date the railroad commission receives  
27 the refiled letter.

1       Sec. 104.371. SECURITY INTERESTS; ASSIGNMENT; COMMINGLING;  
2 DEFAULT. (a) Customer rate relief property does not constitute an  
3 account or general intangible under Section 9.106, Business &  
4 Commerce Code. The creation, granting, perfection, and enforcement  
5 of liens and security interests in customer rate relief property  
6 are governed by this section and not by the Business & Commerce  
7 Code.

8       (b) A valid and enforceable lien and security interest in  
9 customer rate relief property may be created only by a financing  
10 order and the execution and delivery of a security agreement with a  
11 financing party in connection with the issuance of customer rate  
12 relief bonds. The lien and security interest attach automatically  
13 from the time that value is received for the customer rate relief  
14 bonds and, on perfection through the filing of notice with the  
15 secretary of state in accordance with the rules prescribed under  
16 Subsection (d), are a continuously perfected lien and security  
17 interest in the customer rate relief property and all proceeds of  
18 the property, whether accrued or not, have priority in the order of  
19 filing and take precedence over any subsequent judicial or other  
20 lien creditor. The security interest is perfected as of the date of  
21 the filing, except that if notice is filed before the 11th day after  
22 value is received for the customer rate relief bonds, the security  
23 interest is perfected retroactive to the date value was received.

24       (c) Transfer of an interest in customer rate relief property  
25 to an assignee is perfected against all third parties, including  
26 subsequent judicial or other lien creditors, when the financing  
27 order becomes effective, transfer documents have been delivered to

1 the assignee, and a notice of that transfer has been filed in  
2 accordance with the rules prescribed under Subsection (d). If  
3 notice of the transfer is not filed in accordance with this  
4 subsection before the 11th day after the delivery of transfer  
5 documentation, the transfer of the interest is not perfected  
6 against third parties until the notice is filed.

7 (d) The secretary of state shall:

8 (1) establish and maintain a separate system of  
9 records for the filing of notices under this section; and

10 (2) adopt rules governing filing notices under this  
11 section that are based on Chapter 9, Business & Commerce Code,  
12 adapted to this subchapter, and use the terms as defined by this  
13 subchapter.

14 (e) The priority of a lien and security interest perfected  
15 under this section is not impaired by any later modification of the  
16 financing order under a mechanism adopted under Section 104.370 or  
17 by the commingling of funds arising from customer rate relief  
18 charges with other funds. Any other security interest that may  
19 apply to those funds is terminated when the funds are transferred to  
20 a segregated account for the assignee or a financing party. If  
21 customer rate relief property has been transferred to an assignee,  
22 any proceeds of that property must be held in trust for the  
23 assignee.

24 (f) If a default or termination occurs under the customer  
25 rate relief bonds, a district court of Travis County, on  
26 application by or on behalf of the financing parties, shall order  
27 the sequestration and payment to the financing parties of revenue

1 arising from the customer rate relief charges.

2 Sec. 104.372. BOND PROCEEDS IN TRUST. (a) The authority  
3 may deposit proceeds of customer rate relief bonds issued by or on  
4 behalf of the authority under this subchapter with a trustee  
5 selected by the authority or the proceeds may be held by the  
6 comptroller in a dedicated trust fund outside the state treasury in  
7 the custody of the comptroller.

8 (b) Bond proceeds, including investment income, must be  
9 held in trust for the exclusive benefit of the railroad  
10 commission's policy of reimbursing gas utility costs. The  
11 authority shall use the proceeds to:

12 (1) reimburse each gas utility the regulatory asset  
13 amount determined to be reasonable for that gas utility in the  
14 financing order;

15 (2) pay the financing costs of issuing the bonds; and

16 (3) provide bond reserves, as applicable.

17 (c) If there are no outstanding bonds or bond interest to be  
18 paid, the remaining proceeds must be used to provide credits to gas  
19 utility customers.

20 Sec. 104.373. REPAYMENT OF CUSTOMER RATE RELIEF BONDS. (a)  
21 If any customer rate relief bonds or related financing costs remain  
22 outstanding, uniform monthly volumetric customer rate relief  
23 charges must be paid by all current and future customers that  
24 receive service from a gas utility for which a regulatory asset  
25 determination has been made under Section 104.365. A gas utility  
26 and its successors, assignees, or replacements shall continue to  
27 bill and collect, as servicer, customer rate relief charges from

1 the gas utility's current and future customers until all customer  
2 rate relief bonds and financing costs are paid in full.

3 (b) The authority shall report to the railroad commission  
4 the amount of the outstanding customer rate relief bonds issued by  
5 the authority under this subchapter and the estimated amount of  
6 annual bond administrative expenses.

7 (c) All revenue collected from the customer rate relief  
8 charges shall be remitted promptly by the applicable servicers to  
9 the authority to pay bond obligations, ongoing financing costs, and  
10 bond administrative expenses to ensure timely payment of bond  
11 obligations and financing costs.

12 (d) Revenue received from the customer rate relief charges  
13 may be applied only as provided by this subchapter.

14 (e) Bond obligations are payable only from sources provided  
15 for payment by this subchapter.

16 Sec. 104.374. PLEDGE OF STATE. (a) Customer rate relief  
17 bonds issued under this subchapter and any related ancillary  
18 agreements or credit agreements are not a debt or pledge of the  
19 faith and credit of this state or a state agency or political  
20 subdivision of this state. A customer rate relief bond, ancillary  
21 agreement, or credit agreement is payable solely from customer rate  
22 relief charges as provided by this subchapter.

23 (b) Notwithstanding Subsection (a), this state, including  
24 the railroad commission and the authority, pledges for the benefit  
25 and protection of the financing parties and the gas utility that  
26 this state will not take or permit any action that would impair the  
27 value of customer rate relief property, or, except as permitted by



1 Section 104.370, reduce, alter, or impair the customer rate relief  
2 charges to be imposed, collected, and remitted to financing parties  
3 until the principal, interest and premium, and contracts to be  
4 performed in connection with the related customer rate relief bonds  
5 and financing costs have been paid and performed in full. The  
6 authority or any other entity issuing customer rate relief bonds  
7 may include this pledge in any documentation relating to those  
8 bonds.

9 Sec. 104.375. TAX EXEMPTION. (a) Customer rate relief  
10 bonds issued under this subchapter, transactions relating to  
11 customer rate relief bonds, and profits made from the sale of  
12 customer rate relief bonds are exempt from taxation by this state or  
13 a political subdivision of this state.

14 (b) A gas utility's receipt or collection of customer rate  
15 relief charges is exempt from state and local income, sales,  
16 franchise, gross receipts, and other taxes or similar assessments.

17 (c) A tax obligation of the gas utility arising from receipt  
18 of customer rate relief bond proceeds or from the collection or  
19 remittance of customer rate relief charges is an expense that may be  
20 recovered by the gas utility.

21 Sec. 104.376. ASSIGNEE OR FINANCING PARTY NOT PUBLIC  
22 UTILITY. An assignee or financing party may not be considered to be  
23 a public utility or person providing natural gas service solely by  
24 virtue of the transactions described by this subchapter.

25 Sec. 104.377. NO PERSONAL LIABILITY. A commissioner of the  
26 railroad commission, a railroad commission employee, a member of  
27 the board of directors of the authority, or an employee of the

1 authority is not personally liable for a result of an exercise of a  
2 duty or responsibility established under this subchapter.

3 Sec. 104.378. SEVERABILITY. After the date customer rate  
4 relief bonds are issued under this subchapter, if any provision in  
5 this title or portion of this title is held to be invalid or is  
6 invalidated, superseded, replaced, repealed, or expires for any  
7 reason, that occurrence does not affect the validity or  
8 continuation of this subchapter or any other provision of this  
9 title that is relevant to the issuance, administration, payment,  
10 retirement, or refunding of customer rate relief bonds or to any  
11 actions of a gas utility, its successors, an assignee, a collection  
12 agent, or a financing party, which shall remain in full force and  
13 effect.

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

ADOPTED

MAY 26 2021

By: Kelly Harmon

Lacey Spaw  
Secretary of the Senate

H.B. No. 1520

Substitute the following for H.B. No. 1520:

By: [Signature]

C.S. H.B. No. 1520

A BILL TO BE ENTITLED

AN ACT

1

2 relating to certain extraordinary costs incurred by certain gas  
3 utilities relating to Winter Storm Uri and a study of measures to  
4 mitigate similar future costs; providing authority to issue bonds  
5 and impose fees and assessments.

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

7 SECTION 1. Section 1232.002, Government Code, is amended to  
8 read as follows:

9 Sec. 1232.002. PURPOSE. The purpose of this chapter is to  
10 provide a method of financing for:

11 (1) the acquisition or construction of buildings;

12 [~~and~~]

13 (2) the purchase or lease of equipment by executive or  
14 judicial branch state agencies; and

15 (3) customer rate relief bonds authorized by the  
16 Railroad Commission of Texas in accordance with Subchapter I,  
17 Chapter 104, Utilities Code.

18 SECTION 2. Section 1232.066(a), Government Code, is amended  
19 to read as follows:

20 (a) The board's authority under this chapter is limited to  
21 the financing of:

22 (1) the acquisition or construction of a building;

23 (2) the purchase or lease of equipment; [~~or~~]

24 (3) stranded costs of a municipal power agency; or

1           (4) customer rate relief bonds approved by the  
2 Railroad Commission of Texas in accordance with Subchapter I,  
3 Chapter 104, Utilities Code.

4           SECTION 3. Subchapter C, Chapter 1232, Government Code, is  
5 amended by adding Section 1232.1072 to read as follows:

6           Sec. 1232.1072. ISSUANCE OF OBLIGATIONS FOR FINANCING  
7 CUSTOMER RATE RELIEF PROPERTY. (a) The definitions in Section  
8 104.362, Utilities Code, apply to terms used in this section.

9           (b) The authority may create an issuing financing entity for  
10 the purpose of issuing customer rate relief bonds approved by the  
11 Railroad Commission of Texas in a financing order, as provided by  
12 Subchapter I, Chapter 104, Utilities Code.

13           (c) An issuing financing entity created under this section  
14 is a duly constituted public authority and instrumentality of the  
15 state and is authorized to issue customer rate relief bonds on  
16 behalf of the state for the purposes of Section 103, Internal  
17 Revenue Code of 1986 (26 U.S.C. Section 103).

18           (d) The issuing financing entity must be governed by a  
19 governing board of three members appointed by the authority. A  
20 member of the governing board may be a current or former director of  
21 the authority. A member of the governing board serves without  
22 compensation but is entitled to reimbursement for travel expenses  
23 incurred in attending board meetings.

24           (e) The issuing financing entity must be formed in  
25 accordance with, be governed by, and have the powers, rights, and  
26 privileges provided for a nonprofit corporation organized under the  
27 Business Organizations Code, including Chapter 22 of that code,

1 subject to the express exceptions and limitations provided by this  
2 section and Subchapter I, Chapter 104, Utilities Code. A single  
3 organizer selected by the executive director of the authority shall  
4 prepare the certificate of formation of the issuing financing  
5 entity under Chapters 3 and 22, Business Organizations Code. The  
6 certificate of formation must be consistent with the provisions of  
7 this section.

8 (f) The authority shall establish the issuing financing  
9 entity to act on behalf of the state as its duly constituted  
10 authority and instrumentality to issue customer rate relief bonds  
11 approved under Subchapter I, Chapter 104, Utilities Code.

12 (g) On a request to the authority from the Railroad  
13 Commission of Texas, the authority shall direct an issuing  
14 financing entity to issue customer rate relief bonds in accordance  
15 with a financing order issued by the railroad commission as  
16 provided in Subchapter I, Chapter 104, Utilities Code.

17 (h) Before the issuance of any customer rate relief bonds,  
18 the authority and the Railroad Commission of Texas shall ensure  
19 that adequate provision is made in any financing order for the  
20 recovery of all issuance costs and all other fees, costs, and  
21 expenses of the authority, the issuing financing entity, and any  
22 advisors or counsel hired by the authority or the entity for the  
23 purposes of this section during the life of the customer rate relief  
24 bonds.

25 (i) Customer rate relief bonds are limited obligations of  
26 the issuing financing entity payable solely from customer rate  
27 relief property and any other money pledged by the issuing

1 financing entity to the payment of the bonds and are not a debt of  
2 this state, the Railroad Commission of Texas, the authority, or a  
3 gas utility.

4 (j) The Railroad Commission of Texas shall ensure that  
5 customer rate relief charges are imposed, collected, and enforced  
6 in an amount sufficient to pay on a timely basis all bond  
7 obligations, financing costs, and bond administrative expenses  
8 associated with any issuance of customer rate relief bonds.

9 (k) The authority and the Railroad Commission of Texas have  
10 all the powers necessary to perform the duties and responsibilities  
11 described by this section. This section shall be interpreted  
12 broadly in a manner consistent with the most cost-effective  
13 financing of customer rate relief property, including regulatory  
14 assets, extraordinary costs, and related financing costs approved  
15 by the Railroad Commission of Texas in accordance with Subchapter  
16 I, Chapter 104, Utilities Code.

17 (l) Any interest on the customer rate relief bonds is not  
18 subject to taxation by and may not be included as part of the  
19 measurement of a tax by this state or a political subdivision of  
20 this state.

21 (m) The authority shall make periodic reports to the  
22 Railroad Commission of Texas and the public regarding each  
23 financing made in accordance with Section 104.373(b), Utilities  
24 Code, and if required by the applicable financing order.

25 (n) The issuing financing entity shall issue customer rate  
26 relief bonds in accordance with and subject to other provisions of  
27 Title 9 applicable to the authority.

1       (o) The issuing financing entity may exercise the powers  
2 granted to the governing body of an issuer with regard to the  
3 issuance of obligations and the execution of credit agreements  
4 under Chapter 1371. A purpose for which bonds, obligations, or  
5 other evidences of indebtedness are issued under this section and  
6 Subchapter I, Chapter 104, Utilities Code, constitutes an eligible  
7 project for purposes of Chapter 1371 of this code.

8       (p) Assets of an issuing financing entity may not be  
9 considered part of any state fund and must be held outside the state  
10 treasury. The liabilities of the issuing financing entity may not  
11 be considered to be a debt of the state or a pledge of the state's  
12 credit. An issuing financing entity must be self-funded from  
13 customer rate relief property and established in accordance with  
14 Subchapter I, Chapter 104, Utilities Code. A state agency may  
15 provide money appropriated for the purpose to the issuing financing  
16 entity to provide for initial operational expenses of the issuing  
17 financing entity.

18       SECTION 4. Section 1232.108, Government Code, is amended to  
19 read as follows:

20       Sec. 1232.108. LEGISLATIVE AUTHORIZATION REQUIRED. Except  
21 as permitted by Section 1232.1072, 1232.109, 2166.452, or 2166.453,  
22 before the board may issue and sell bonds, the legislature by the  
23 General Appropriations Act or other law must have authorized:

24               (1) the specific project for which the bonds are to be  
25 issued and sold; and

26               (2) the estimated cost of the project or the maximum  
27 amount of bonded indebtedness that may be incurred by the issuance

1 and sale of bonds for the project.

2 SECTION 5. Chapter 104, Utilities Code, is amended by  
3 adding Subchapter I to read as follows:

4 SUBCHAPTER I. CUSTOMER RATE RELIEF BONDS

5 Sec. 104.361. PURPOSE; RAILROAD COMMISSION DUTY. (a) The  
6 purpose of this subchapter is to reduce the cost that customers  
7 would otherwise experience because of extraordinary costs that gas  
8 utilities incurred to secure gas supply and provide service during  
9 Winter Storm Uri, and to restore gas utility systems after that  
10 event, by providing securitization financing for gas utilities to  
11 recover those costs. The securitization financing mechanism  
12 authorized by this subchapter will:

13 (1) provide rate relief to customers by extending the  
14 period during which the costs described by this subsection are  
15 recovered from customers; and

16 (2) support the financial strength and stability of  
17 gas utility companies.

18 (b) The railroad commission shall ensure that  
19 securitization provides tangible and quantifiable benefits to  
20 customers, greater than would have been achieved absent the  
21 issuance of customer rate relief bonds.

22 Sec. 104.362. DEFINITIONS. In this subchapter:

23 (1) "Ancillary agreement" means a financial  
24 arrangement entered into in connection with the issuance or payment  
25 of customer rate relief bonds that enhances the marketability,  
26 security, or creditworthiness of customer rate relief bonds,  
27 including a bond, insurance policy, letter of credit, reserve



1 account, surety bond, interest rate or currency swap arrangement,  
2 interest rate lock agreement, forward payment conversion  
3 agreement, credit agreement, other hedging arrangement, or  
4 liquidity or credit support arrangement.

5 (2) "Authority" means the Texas Public Finance  
6 Authority.

7 (3) "Bond administrative expenses" means all costs and  
8 expenses incurred by the railroad commission, the authority, or any  
9 issuing financing entity to evaluate, issue, and administer  
10 customer rate relief bonds issued under this subchapter, including  
11 fees and expenses of the authority, any bond administrator, and the  
12 issuing financing entity, fees for paying agents, trustees, and  
13 attorneys, and fees for paying for other consulting and  
14 professional services necessary to ensure compliance with this  
15 subchapter, applicable state or federal law, and the terms of the  
16 financing order.

17 (4) "Bond obligations" means the principal of a  
18 customer rate relief bond and any premium and interest on a customer  
19 rate relief bond issued under this subchapter, together with any  
20 amount owed under a related ancillary agreement or credit  
21 agreement.

22 (5) "Credit agreement" has the meaning assigned by  
23 Section 1371.001, Government Code.

24 (6) "Customer rate relief bonds" means bonds, notes,  
25 certificates, or other evidence of indebtedness or ownership the  
26 proceeds of which are used directly or indirectly to recover,  
27 finance, or refinance regulatory assets approved by the railroad

1 commission, including extraordinary costs and related financing  
2 costs, and that are:

3 (A) issued by an issuing financing entity under a  
4 financing order; and

5 (B) payable from and secured by customer rate  
6 relief property and amounts on deposit in any trust accounts  
7 established for the benefit of the customer rate relief bondholders  
8 as approved by the applicable financing order.

9 (7) "Customer rate relief charges" means the amounts  
10 authorized by the railroad commission as nonbypassable charges to  
11 repay, finance, or refinance regulatory assets, including  
12 extraordinary costs, financing costs, bond administrative  
13 expenses, and other costs authorized by the financing order:

14 (A) imposed on and included in customer bills of  
15 a gas utility that has received a regulatory asset determination  
16 under Section 104.365;

17 (B) collected in full by a gas utility that has  
18 received a regulatory asset determination under Section 104.365, or  
19 its successors or assignees, or a collection agent, as servicer,  
20 separate and apart from the gas utility's base rates; and

21 (C) paid by all existing or future customers  
22 receiving service from a gas utility that has received a regulatory  
23 asset determination under Section 104.365 or its successors or  
24 assignees, even if a customer elects to purchase gas from an  
25 alternative gas supplier.

26 (8) "Customer rate relief property" means:

27 (A) all rights and interests of an issuing

1 financing entity or any successor under a financing order,  
2 including the right to impose, bill, collect, and receive customer  
3 rate relief charges authorized in the financing order and to obtain  
4 periodic adjustments to those customer rate relief charges as  
5 provided in the financing order and in accordance with Section  
6 104.370; and

7 (B) all revenues, collections, claims, rights to  
8 payments, payments, money, or proceeds arising from the rights and  
9 interests specified by Paragraph (A), regardless of whether the  
10 revenues, collections, claims, rights to payments, payments,  
11 money, or proceeds are imposed, billed, received, collected, or  
12 maintained together with or commingled with other revenues,  
13 collections, rights to payments, payments, money, or proceeds.

14 (9) "Financing costs" means any of the following:

15 (A) interest and acquisition, defeasance, or  
16 redemption premiums that are payable on customer rate relief bonds;

17 (B) a payment required under an ancillary  
18 agreement or credit agreement or an amount required to fund or  
19 replenish reserve or other accounts established under the terms of  
20 an indenture, ancillary agreement, or other financing document  
21 pertaining to customer rate relief bonds;

22 (C) issuance costs or ongoing costs related to  
23 supporting, repaying, servicing, or refunding customer rate relief  
24 bonds, including servicing fees, accounting or auditing fees,  
25 trustee fees, legal fees or expenses, consulting fees,  
26 administrative fees, printing fees, financial advisor fees or  
27 expenses, Securities and Exchange Commission registration fees,

1 issuer fees, bond administrative expenses, placement and  
2 underwriting fees, capitalized interest, overcollateralization  
3 funding requirements including amounts to fund or replenish any  
4 reserve established for a series of customer rate relief bonds,  
5 rating agency fees, stock exchange listing and compliance fees,  
6 filing fees, and any other bond administrative expenses; and

7 (D) the costs to the railroad commission of  
8 acquiring professional or consulting services for the purpose of  
9 evaluating extraordinary costs under this subchapter.

10 (10) "Financing order" means an order adopted under  
11 Section 104.366 approving the issuance of customer rate relief  
12 bonds and the creation of customer rate relief property and  
13 associated customer rate relief charges for the recovery of  
14 regulatory assets, including extraordinary costs, related  
15 financing costs, and other costs authorized by the financing order.

16 (11) "Financing party" means a holder of customer rate  
17 relief bonds, including a trustee, a pledgee, a collateral agent,  
18 any party under an ancillary agreement, or other person acting for  
19 the holder's benefit.

20 (12) "Gas utility" means:

21 (A) an operator of natural gas distribution  
22 pipelines that delivers and sells natural gas to the public and that  
23 is subject to the railroad commission's jurisdiction under Section  
24 102.001; or

25 (B) an operator that transmits, transports,  
26 delivers, or sells natural gas or synthetic natural gas to  
27 operators of natural gas distribution pipelines and whose rates for

1 those services are established by the railroad commission in a rate  
2 proceeding filed under this chapter.

3 (13) "Issuing financing entity" means a special  
4 purpose nonmember, nonstock, nonprofit public corporation  
5 established by the authority under Section 1232.1072, Government  
6 Code.

7 (14) "Nonbypassable" means a charge that:

8 (A) must be paid by all existing or future  
9 customers receiving service from a gas utility that has received a  
10 regulatory asset determination under Section 104.365 or the gas  
11 utility's successors or assignees, even if a customer elects to  
12 purchase gas from an alternative gas supplier; and

13 (B) may not be offset by any credit.

14 (15) "Normalized market pricing" means the average  
15 monthly pricing at the Henry Hub for the three months immediately  
16 preceding the month during which extraordinary costs were incurred,  
17 plus contractual adders to the index price and other non-indexed  
18 gas procurement costs.

19 (16) "Regulatory asset" includes extraordinary costs:

20 (A) recorded by a gas utility in the utility's  
21 books and records in accordance with the uniform system of accounts  
22 prescribed for natural gas companies subject to the provisions of  
23 the Natural Gas Act (15 U.S.C. Section 717 et seq.) by the Federal  
24 Energy Regulatory Commission and generally accepted accounting  
25 principles; or

26 (B) classified as a receivable or financial asset  
27 under international financial reporting standards under the

1 railroad commission's authorization in the Notice of Authorization  
2 for Regulatory Asset Accounting for Local Distribution Companies  
3 Affected by the February 2021 Winter Weather Event issued February  
4 13, 2021.

5           (17) "Servicer" means, with respect to each issuance  
6 of customer rate relief bonds, the entity identified by the  
7 railroad commission in the financing order as servicer responsible  
8 for collecting customer rate relief charges from participating gas  
9 utilities, remitting all collected funds to the applicable issuing  
10 financing entity or the bond trustee, calculating true-up  
11 adjustments, and performing any other duties as specified in the  
12 financing order.

13           (18) "Winter Storm Uri" means the North American  
14 winter storm that occurred in February 2021.

15           Sec. 104.363. EXTRAORDINARY COSTS. For the purposes of  
16 this subchapter, extraordinary costs are the reasonable and  
17 necessary costs related to Winter Storm Uri, including carrying  
18 costs, placed in a regulatory asset and approved by the railroad  
19 commission in a regulatory asset determination under Section  
20 104.365.

21           Sec. 104.364. JURISDICTION AND POWERS OF RAILROAD  
22 COMMISSION AND OTHER REGULATORY AUTHORITIES. (a) The railroad  
23 commission may authorize the issuance of customer rate relief bonds  
24 if the requirements of Section 104.366 are met.

25           (b) The railroad commission may assess to a gas utility  
26 costs associated with administering this subchapter. Assessments  
27 must be recovered from rate-regulated customers as part of gas

1 cost.

2 (c) The railroad commission has exclusive, original  
3 jurisdiction to issue financing orders that authorize the creation  
4 of customer rate relief property. Customer rate relief property  
5 must be created and vested in an issuing financing entity and does  
6 not constitute property of the railroad commission or any gas  
7 utility.

8 (d) Except as provided by Subsection (c), this subchapter  
9 does not limit or impair a regulatory authority's plenary  
10 jurisdiction over the rates, charges, and services rendered by gas  
11 utilities in this state under Chapter 102.

12 Sec. 104.365. REGULATORY ASSET DETERMINATION. (a) The  
13 railroad commission, on application of a gas utility to recover a  
14 regulatory asset, shall determine the regulatory asset amount to be  
15 recovered by the gas utility. A gas utility may request recovery of  
16 a regulatory asset under this subchapter only if the regulatory  
17 asset is related to Winter Storm Uri.

18 (b) A gas utility desiring to participate in the customer  
19 rate relief bond process under a financing order by requesting  
20 recovery of a regulatory asset must file an application with the  
21 railroad commission on or before the 60th day after the effective  
22 date of the Act enacting this subchapter.

23 (c) If the railroad commission does not make a final  
24 determination regarding the regulatory asset amount to be recovered  
25 by a gas utility before the 91st day after the gas utility files the  
26 application, the railroad commission is considered to have approved  
27 the regulatory asset amount requested by the gas utility.

1        (d) The regulatory asset determination is not subject to  
2 reduction, impairment, or adjustment by further action of the  
3 railroad commission, except as authorized by Section 104.370.

4        (e) The regulatory asset determination is not subject to  
5 rehearing by the railroad commission and may be appealed only to a  
6 Travis County district court by a party to the proceeding. The  
7 appeal must be filed not later than the 15th day after the date the  
8 order is signed by the railroad commission.

9        (f) The judgment of the district court may be reviewed only  
10 by direct appeal to the Supreme Court of Texas. The appeal must be  
11 filed not later than the 15th day after the date of entry of  
12 judgment.

13        (g) All appeals shall be heard and determined by the  
14 district court and the Supreme Court of Texas as expeditiously as  
15 possible with lawful precedence over other matters. Review on  
16 appeal shall be based solely on the record before the railroad  
17 commission and briefs to the court and limited to whether the  
18 financing order:

19                (1) complies with the constitution and laws of this  
20 state and the United States; and

21                (2) is within the authority of the railroad commission  
22 to issue under this subchapter.

23        (h) The railroad commission shall establish a schedule,  
24 filing requirements, and a procedure for determining the prudence  
25 of the costs included in a gas utility's regulatory asset.

26        (i) To the extent a gas utility subject to this subchapter  
27 receives insurance proceeds, governmental grants, or other sources



1 of funding that compensate or otherwise reimburse or indemnify the  
2 gas utility for extraordinary costs following the issuance of  
3 customer rate relief bonds, the gas utility may record the amount in  
4 a regulatory liability account and that amount shall be reviewed in  
5 a future proceeding. If an audit conducted under a valid gas  
6 purchase agreement identifies a change of greater than five percent  
7 to the total amount of the gas supply costs incurred during the  
8 event for which regulatory asset recovery was approved, the gas  
9 utility may record the amount in a regulatory asset or regulatory  
10 liability account and that amount shall be reviewed for recovery in  
11 a future proceeding.

12 Sec. 104.366. FINANCING ORDERS AND ISSUANCE OF CUSTOMER  
13 RATE RELIEF BONDS. (a) If the railroad commission determines that  
14 customer rate relief bond financing for extraordinary costs is the  
15 most cost-effective method of funding regulatory asset  
16 reimbursements to be made to gas utilities, the railroad  
17 commission, after the final resolution of all applications filed  
18 under Section 104.365, may request the authority to direct an  
19 issuing financing entity to issue customer rate relief bonds.  
20 Before making the request, the railroad commission must issue a  
21 financing order that complies with this section.

22 (b) To make the determination described by Subsection (a),  
23 the railroad commission must find that the proposed structuring,  
24 expected pricing, and proposed financing costs of the customer rate  
25 relief bonds are reasonably expected to provide benefits to  
26 customers by:

27 (1) considering customer affordability; and

1                   (2) comparing:  
2                    (A) the estimated monthly costs to customers  
3 resulting from the issuance of customer rate relief bonds; and  
4                    (B) the estimated monthly costs to customers that  
5 would result from the application of conventional recovery methods.  
6                   (c) The financing order must:  
7                    (1) include a finding that the use of the  
8 securitization financing mechanism is in the public interest and  
9 consistent with the purposes of this subchapter;  
10                   (2) detail the total amount of the regulatory asset  
11 determinations to be included in the customer rate relief bond  
12 issuance;  
13                    (3) authorize the recovery of any tax obligation of  
14 the gas utilities arising or resulting from:  
15                    (A) receipt of customer rate relief bond  
16 proceeds; or  
17                    (B) collection or remittance of customer rate  
18 relief charges through the gas utilities' gas cost recovery  
19 mechanism or other means that the railroad commission determines  
20 reasonable;  
21                    (4) authorize the issuance of customer rate relief  
22 bonds through an issuing financing entity;  
23                    (5) include a statement of:  
24                    (A) the aggregated regulatory asset  
25 determination to be included in the principal amount of the  
26 customer rate relief bonds, not to exceed \$10 billion for any  
27 separate bond issue;

1           (B) the maximum scheduled final maturity of the  
2 customer rate relief bonds, not to exceed 30 years, except that the  
3 legal final maturity may be longer based on rating agency and market  
4 considerations; and

5           (C) the maximum interest rate that the customer  
6 rate relief bonds may bear, not to exceed the maximum net effective  
7 interest rate allowed by law;

8           (6) provide for the imposition, collection, and  
9 mandatory periodic formulaic adjustment of customer rate relief  
10 charges in accordance with Section 104.370 by all gas utilities and  
11 successors of gas utilities for which a regulatory asset  
12 determination has been made under Section 104.365 to ensure that  
13 the customer rate relief bonds and all related financing costs will  
14 be paid in full and on a timely basis by customer rate relief  
15 charges;

16           (7) authorize the creation of customer rate relief  
17 property in favor of the issuing financing entity and pledge of  
18 customer rate relief property to the payment of the customer rate  
19 relief bonds;

20           (8) direct the issuing financing entity to disperse  
21 the proceeds of customer rate relief bonds, net of bond issuance  
22 costs, reserves, and any capitalized interest, to gas utilities for  
23 which a regulatory asset determination has been made under Section  
24 104.365 and include the amounts to be distributed to each  
25 participating gas utility;

26           (9) provide that customer rate relief charges be  
27 collected and allocated among customers of each gas utility for

1 which a regulatory determination has been made under Section  
2 104.365 through uniform monthly volumetric charges to be paid by  
3 customers as a component of the gas utility's gas cost or in another  
4 manner that the railroad commission determines reasonable; and

5 (10) reflect the commitment made by a gas utility  
6 receiving proceeds that the proceeds are in lieu of recovery of  
7 those costs through the regular ratemaking process or other  
8 mechanism to the extent the costs are reimbursed to the gas utility  
9 by customer rate relief bond financing proceeds.

10 (d) The financing order may provide for a centralized  
11 servicer to coordinate with participating gas utilities who bill  
12 and collect customer rate relief charges and to provide certain  
13 collection and forecast data required for calculating true-up  
14 adjustments. The financing order may not provide for the railroad  
15 commission, the authority, the issuing financing entity, or a  
16 participating utility to act as servicer.

17 (e) The principal amount determined by the railroad  
18 commission must be increased to include an amount sufficient to:

19 (1) pay the financing costs associated with the  
20 issuance, including all bond administrative expenses to be paid  
21 from the proceeds of the bonds;

22 (2) reimburse the authority and the railroad  
23 commission for any costs incurred for the issuance of the customer  
24 rate relief bonds and related bond administrative expenses;

25 (3) provide for any applicable bond reserve fund; and

26 (4) capitalize interest for the period determined  
27 necessary by the railroad commission.

1       (f) The authority, consistent with this subchapter and the  
2 terms of the financing order, shall:

3           (1) direct an issuing financing entity to issue  
4 customer rate relief bonds at the railroad commission's request, in  
5 accordance with the requirements of Chapter 1232, Government Code,  
6 and other provisions of Title 9, Government Code, that apply to bond  
7 issuance by a state agency;

8           (2) determine the methods of sale, types of bonds,  
9 bond forms, interest rates, principal amortization, amount of  
10 reserves or capitalized interest, and other terms of the customer  
11 rate relief bonds that in the authority's judgment best achieve the  
12 economic goals of the financing order and effect the financing at  
13 the lowest practicable cost; and

14           (3) reimburse the railroad commission, the authority,  
15 or any issuing financing entity for bond administrative expenses  
16 and other costs authorized under this subchapter.

17       (g) To the extent authorized in the applicable financing  
18 order, an issuing financing entity may enter into credit agreements  
19 or ancillary agreements in connection with the issuance of customer  
20 rate relief bonds.

21       (h) The financing order becomes effective in accordance  
22 with its terms. The financing order, together with the customer  
23 rate relief property and the customer rate relief charges  
24 authorized by the financing order, is irrevocable and not subject  
25 to reduction, impairment, or adjustment by further action of the  
26 railroad commission, except as provided under Subsection (j) and  
27 authorized by Section 104.370.

1        (i) The railroad commission shall issue a financing order  
2 under this section not later than the 90th day following the date of  
3 the conclusion of all proceedings filed under Section 104.365.

4        (j) A financing order is not subject to rehearing by the  
5 railroad commission. A financing order may be appealed only to a  
6 Travis County district court by a party to the proceeding. The  
7 appeal must be filed not later than the 15th day after the date the  
8 financing order is signed by the railroad commission.

9        (k) The judgment of the district court may be reviewed only  
10 by direct appeal to the Supreme Court of Texas. The appeal must be  
11 filed not later than the 15th day after the date of entry of  
12 judgment.

13        (l) All appeals shall be heard and determined by the  
14 district court and the Supreme Court of Texas as expeditiously as  
15 possible with lawful precedence over other matters. Review on  
16 appeal shall be based solely on the record before the railroad  
17 commission and briefs to the court and is limited to whether the  
18 financing order:

19                (1) complies with the constitution and laws of this  
20 state and the United States; and

21                (2) is within the authority of the railroad commission  
22 to issue under this subchapter.

23        (m) The railroad commission shall transmit a financing  
24 order to the authority after all appeals under this section have  
25 been exhausted.

26        (n) The authority shall direct an issuing financing entity  
27 to issue customer rate relief bonds as soon as practicable and not

1 later than the 180th day after receipt of a financing order issued  
2 under this section, except that the authority may cause the  
3 issuance after the 180th day if necessary based on bond market  
4 conditions, the receipt of necessary approvals, and the timely  
5 receipt of necessary financial disclosure information from each  
6 participating gas utility.

7 (o) The issuing financing entity shall deliver customer  
8 rate relief bond proceeds net of upfront financing costs in  
9 accordance with the applicable financing order.

10 (p) For the benefit of the authority, the issuing financing  
11 entity, holders of customer rate relief bonds, and all other  
12 financing parties, the railroad commission shall guarantee in a  
13 financing order that the railroad commission will take all actions  
14 in the railroad commission's powers to enforce the provisions of  
15 the financing order to ensure that customer rate relief charge  
16 revenues are sufficient to pay on a timely basis scheduled  
17 principal and interest on the customer rate relief bonds and all  
18 related financing costs and bond administrative expenses.

19 (q) The railroad commission shall make periodic reports to  
20 the public regarding each financing.

21 Sec. 104.367. PROPERTY RIGHTS. (a) Customer rate relief  
22 bonds are the limited obligation solely of the issuing financing  
23 entity and are not a debt of a gas utility or a debt or a pledge of  
24 the faith and credit of this state or any political subdivision of  
25 this state.

26 (b) Customer rate relief bonds are nonrecourse to the credit  
27 or any assets of this state or the authority. A trust fund created

1 in connection with the issuance of customer rate relief bonds is not  
2 subject to Subtitle B, Title 9, Property Code.

3 (c) The rights and interests of an issuing financing entity  
4 or the successor under a financing order, including the right to  
5 receive customer rate relief charges authorized in the financing  
6 order, are only contract rights until pledged in connection with  
7 the issuance of the customer rate relief bonds, at which time the  
8 rights and interests become customer rate relief property.

9 (d) Customer rate relief property created under a financing  
10 order is vested ab initio in the issuing financing entity. Customer  
11 rate relief property constitutes a present property right for  
12 purposes of contracts concerning the sale or pledge of property,  
13 notwithstanding that the imposition and collection of customer rate  
14 relief charges depends on further acts of the gas utility or others  
15 that have not yet occurred. The financing order remains in effect,  
16 and the customer rate relief property continues to exist, for the  
17 same period as the pledge of the state described by Section 104.374.

18 (e) All revenue and collections resulting from customer  
19 rate relief charges constitute proceeds only of a property right  
20 arising from the financing order.

21 (f) An amount owed by an issuing financing entity under an  
22 ancillary agreement or a credit agreement is payable from and  
23 secured by a pledge and interest in the customer rate relief  
24 property to the extent provided in the documents evidencing the  
25 ancillary agreement or credit agreement.

26 Sec. 104.368. PROPERTY INTEREST NOT SUBJECT TO SETOFF,  
27 COUNTERCLAIM, SURCHARGE, OR DEFENSE. The interest of an issuing



1 financing entity or pledgee in customer rate relief property,  
2 including the revenue and collections arising from customer rate  
3 relief charges, is not subject to setoff, counterclaim, surcharge,  
4 or defense by the gas utility or any other person or in connection  
5 with the bankruptcy of the gas utility, the authority, or any other  
6 entity. A financing order remains in effect and unabated  
7 notwithstanding the bankruptcy of the gas utility, the authority,  
8 an issuing financing entity, or any successor or assignee of the gas  
9 utility, authority, or issuing financing entity.

10 Sec. 104.369. CUSTOMER RATE RELIEF CHARGES NONBYPASSABLE.

11 A financing order must include terms ensuring that the imposition  
12 and collection of the customer rate relief charges authorized in  
13 the order are nonbypassable.

14 Sec. 104.370. TRUE-UP MECHANISM. (a) A financing order  
15 must include a formulaic true-up charge adjustment mechanism that  
16 requires that the customer rate relief charges be reviewed and  
17 adjusted at least annually by the servicer or replacement servicer,  
18 including a subservicer or replacement subservicer, at time periods  
19 and frequencies provided in the financing order, to:

20 (1) correct any overcollections or undercollections  
21 of the preceding 12 months; and

22 (2) ensure the expected recovery of amounts sufficient  
23 to provide for the timely payment of customer rate relief bond  
24 principal and interest payments and other financing costs.

25 (b) True-up charge adjustments must become effective not  
26 later than the 30th day after the date the railroad commission  
27 receives a true-up charge adjustment letter from the servicer or

1 replacement servicer notifying the railroad commission of the  
2 pending adjustment.

3 (c) Any administrative review of true-up charge adjustments  
4 must be limited to notifying the servicer of mathematical or  
5 clerical errors in the calculation. The servicer may correct the  
6 error and refile a true-up charge adjustment letter, with the  
7 adjustment becoming effective as soon as practicable but not later  
8 than the 30th day after the date the railroad commission receives  
9 the refiled letter.

10 Sec. 104.371. SECURITY INTERESTS; ASSIGNMENT; COMMINGLING;  
11 DEFAULT. (a) Customer rate relief property does not constitute an  
12 account or general intangible under Section 9.106, Business &  
13 Commerce Code. The creation, granting, perfection, and enforcement  
14 of liens and security interests in customer rate relief property  
15 that secures customer rate relief bonds are governed by Chapter  
16 1208, Government Code.

17 (b) The priority of a lien and security interest perfected  
18 under this section is not impaired by any later adjustment of  
19 customer rate relief charges under a mechanism adopted under  
20 Section 104.370 or by the commingling of funds arising from  
21 customer rate relief charges with other funds. Any other security  
22 interest that may apply to those funds is terminated when the funds  
23 are transferred to a segregated account for the issuing financing  
24 entity or a financing party. If customer rate relief property has  
25 been transferred to a trustee or another pledgee of the issuing  
26 financing entity, any proceeds of that property must be held in  
27 trust for the financing party.

1       (c) If a default or termination occurs under the customer  
2 rate relief bonds, a district court of Travis County, on  
3 application by or on behalf of the financing parties, shall order  
4 the sequestration and payment to the financing parties of revenue  
5 arising from the customer rate relief charges.

6       Sec. 104.372. BOND PROCEEDS IN TRUST. (a) The issuing  
7 financing entity may deposit proceeds of customer rate relief bonds  
8 issued by the issuing financing entity under this subchapter with a  
9 trustee selected by the issuing financing entity or the proceeds  
10 may be held by the comptroller in a dedicated trust fund outside the  
11 state treasury in the custody of the comptroller.

12       (b) Bond proceeds, net of the financing costs and reserves  
13 described by Subdivisions (2) and (3), including investment income,  
14 must be held in trust for the exclusive benefit of the railroad  
15 commission's policy of reimbursing gas utility costs and applied in  
16 accordance with the financing order. The issuing financing entity  
17 shall deliver the net proceeds, as provided in the applicable  
18 financing order, to:

19           (1) reimburse each gas utility the regulatory asset  
20 amount determined to be reasonable for that gas utility in the  
21 financing order;

22           (2) pay the financing costs of issuing the bonds; and

23           (3) provide bond reserves or fund any capitalized  
24 interest, as applicable.

25       (c) On full payment of the customer rate relief bonds and  
26 any related financing costs, any customer rate relief charges or  
27 other amounts held as security for the bonds shall be used to

1 provide credits to gas utility customers as provided in the  
2 financing order.

3 Sec. 104.373. REPAYMENT OF CUSTOMER RATE RELIEF BONDS. (a)  
4 As long as any customer rate relief bonds or related financing costs  
5 remain outstanding, uniform monthly volumetric customer rate  
6 relief charges must be paid by all current and future customers that  
7 receive service from a gas utility for which a regulatory asset  
8 determination has been made under Section 104.365. A gas utility  
9 and its successors, assignees, or replacements shall continue to  
10 bill and collect customer rate relief charges from the gas  
11 utility's current and future customers until all customer rate  
12 relief bonds and financing costs are paid in full.

13 (b) The authority shall report to the railroad commission  
14 the amount of the outstanding customer rate relief bonds issued by  
15 the issuing financing entity under this subchapter and the  
16 estimated amount of annual bond administrative expenses.

17 (c) All revenue collected from the customer rate relief  
18 charges shall be remitted promptly by the applicable servicers to  
19 the issuing financing entity or the bond trustee for the customer  
20 rate relief bonds to pay bond obligations and ongoing financing  
21 costs, including bond administrative expenses, to ensure timely  
22 payment of bond obligations and financing costs.

23 (d) Customer rate relief property, including customer rate  
24 relief charges, may be applied only as provided by this subchapter.

25 (e) Bond obligations are payable only from sources provided  
26 for payment by this subchapter.

27 Sec. 104.374. PLEDGE OF STATE. (a) Customer rate relief

1 bonds issued under this subchapter and any related ancillary  
2 agreements or credit agreements are not a debt or pledge of the  
3 faith and credit of this state or a state agency or political  
4 subdivision of this state. A customer rate relief bond, ancillary  
5 agreement, or credit agreement is payable solely from customer rate  
6 relief charges as provided by this subchapter.

7       (b) Notwithstanding Subsection (a), this state, including  
8 the railroad commission and the authority, pledges for the benefit  
9 and protection of the financing parties and the gas utility that  
10 this state will not take or permit any action that would impair the  
11 value of customer rate relief property, or, except as permitted by  
12 Section 104.370, reduce, alter, or impair the customer rate relief  
13 charges to be imposed, collected, and remitted to financing parties  
14 until the principal, interest and premium, and contracts to be  
15 performed in connection with the related customer rate relief bonds  
16 and financing costs have been paid and performed in full. Each  
17 issuing financing entity shall include this pledge in any  
18 documentation relating to customer rate relief bonds.

19       (c) Before the date that is two years and one day after the  
20 date that an issuing financing entity no longer has any payment  
21 obligation with respect to customer rate relief bonds, the issuing  
22 financing entity may not wind up or dissolve the financing entity's  
23 operations, may not file a voluntary petition under federal  
24 bankruptcy law, and neither the board of the issuing financing  
25 entity nor any public official nor any organization, entity, or  
26 other person may authorize the issuing financing entity to be or to  
27 become a debtor under federal bankruptcy law during that period.

1 The state covenants that it will not limit or alter the denial of  
2 authority under this subsection, and the provisions of this  
3 subsection are hereby made a part of the contractual obligation  
4 that is subject to the state pledge made in this section.

5 Sec. 104.375. TAX EXEMPTION. (a) Customer rate relief  
6 bonds issued under this subchapter, the proceeds of those bonds,  
7 the customer rate relief charges, and any transactions relating to  
8 customer rate relief bonds are exempt from taxation by this state or  
9 a political subdivision of this state.

10 (b) A gas utility's receipt or collection of customer rate  
11 relief charges is exempt from state and local sales and use,  
12 franchise, and gross receipts taxes.

13 (c) A tax obligation of the gas utility arising from receipt  
14 of customer rate relief bond proceeds or from the collection or  
15 remittance of customer rate relief charges is an expense that may be  
16 recovered by the gas utility.

17 Sec. 104.376. ISSUING FINANCING ENTITY OR FINANCING PARTY  
18 NOT PUBLIC UTILITY. An issuing financing entity or financing party  
19 may not be considered to be a public utility or person providing  
20 natural gas service solely by virtue of the transactions described  
21 by this subchapter.

22 Sec. 104.377. NO PERSONAL LIABILITY. A commissioner of the  
23 railroad commission, a railroad commission employee, a member of  
24 the board of directors of the authority, an employee of the  
25 authority, or a director, officer, or employee of any issuing  
26 financing entity is not personally liable for a result of an  
27 exercise of a duty or responsibility established under this

1 subchapter.

2 Sec. 104.378. CATASTROPHIC WEATHER EVENT STUDY. (a) The  
3 railroad commission shall conduct a study on measures to mitigate  
4 catastrophic weather events, including measures to:

5 (1) establish natural gas storage capacity to ensure a  
6 reliable gas supply, including location, ownership, and other  
7 pertinent factors regarding gas storage capacity;

8 (2) assess the advantages and disadvantages of  
9 requiring local distribution companies to use hedging tactics to  
10 avoid volatile customer rates; and

11 (3) assess the advantages and disadvantages of  
12 prohibiting spot market purchases during a catastrophic weather  
13 event that contribute to volatile customer rates.

14 (b) Not later than December 1, 2022, the railroad commission  
15 shall report the railroad commission's findings to the governor,  
16 the lieutenant governor, and the speaker of the house of  
17 representatives.

18 (c) This section expires August 31, 2023.

19 Sec. 104.379. SEVERABILITY. After the date customer rate  
20 relief bonds are issued under this subchapter, if any provision in  
21 this title or portion of this title or related provisions in Title  
22 9, Government Code, are held to be invalid or are invalidated,  
23 superseded, replaced, repealed, or expire for any reason, that  
24 occurrence does not affect the validity or continuation of this  
25 subchapter or any other provision of this title or related  
26 provisions in Title 9, Government Code, that are relevant to the  
27 issuance, administration, payment, retirement, or refunding of

1 customer rate relief bonds or to any actions of a gas utility, its  
2 successors, an assignee, a collection agent, or a financing party,  
3 which shall remain in full force and effect.

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



ADOPTED

MAY 26 2021

*Lately Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Kelly Harmon*

1 Amend C.S.H.B. No. 1520 (senate committee printing) as  
2 follows:

3 (1) In SECTION 5 of the bill, strike added Section 104.375,  
4 Utilities Code (page 11, line 69, through page 12, line 11), and  
5 substitute the following:

6 Sec. 104.375. TAX EXEMPTION. (a) The sale or purchase of  
7 or revenue derived from services performed in the issuance or  
8 transfer of customer rate relief bonds issued under this subchapter  
9 is exempt from taxation by this state or a political subdivision of  
10 this state.

11 (b) A gas utility's receipt of customer rate relief charges  
12 is exempt from state and local sales and use taxes and utility gross  
13 receipts taxes and assessments, and is excluded from revenue for  
14 purposes of franchise tax under Section 171.1011, Tax Code.

15 (2) In SECTION 5 of the bill, in added Subchapter I, Chapter  
16 104, Utilities Code (page 12, between lines 11 and 12), insert the  
17 following:

18 Sec. 104.376. RECOVERABLE TAX EXPENSE. A tax obligation of  
19 the gas utility arising from receipt of customer rate relief bond  
20 proceeds or from the collection or remittance of customer rate  
21 relief charges is an allowable expense under Section 104.055.

22 (3) Renumber subsequent sections of added Subchapter I,  
23 Chapter 104, Utilities Code, accordingly.

**ADOPTED**

14.12  
MAY 26 2021

FLOOR AMENDMENT NO. \_\_\_\_\_

2

*Lately Law*  
Secretary of the Senate

BY: \_\_\_\_\_

*L. W. Keller*

Amend C.S.H.B. No. 1520 (senate committee printing) in SECTION 5 of the bill, in added Section 104.365(c), Utilities Code (page 6, line 29), by striking "91st" and substituting "151st".

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 27, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1520** by Paddie (Relating to certain extraordinary costs incurred by certain gas utilities relating to Winter Storm Uri and a study of measures to mitigate similar future costs; providing authority to issue bonds and impose fees and assessments.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1520, As Passed 2nd House : a negative impact of (\$2,133,296) through the biennium ending August 31, 2023. Additionally, as the amount and timing of the customer rate relief bond issuance and associated collection of customer rate relief bond charge amounts are unknown, the fiscal impact to revenue collections cannot be determined.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2022	(\$1,297,898)
2023	(\$835,398)
2024	(\$835,398)
2025	(\$835,398)
2026	(\$835,398)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Savings/(Cost) from Bond Proceeds-Rev Bonds 781</b>	<b>Change in Number of State Employees from FY 2021</b>
2022	(\$1,297,898)	(\$666,481,338)	8.0
2023	(\$835,398)	(\$666,481,338)	8.0
2024	(\$835,398)	(\$666,481,338)	8.0
2025	(\$835,398)	(\$666,481,338)	8.0
2026	(\$835,398)	(\$666,481,338)	8.0

**Fiscal Analysis**

The bill would allow the Public Finance Authority (TPFA) to provide a method of financing for customer rate relief bonds authorized by the Railroad Commission (RRC) whose proceeds would be used to reduce the cost that customers would otherwise experience due to the extraordinary costs that gas utilities may incur to secure gas supply and provide service during natural or man-made disasters, system failures, and other catastrophic events and to restore gas utility systems after such events by providing securitization financing enabling gas

utilities to recover these costs.

The bill would authorize the creation of a bankruptcy-remote special purpose entity designed to hold financial assets pledged as security for repayment of the bonds, such financial assets consisting of future assessments and fees receivable from utilities customers offsetting exceptional costs incurred during unusual circumstances.

The bill would require RRC to issue a financing order before requesting TPFAs to issue the bonds on its behalf. The financing order must include a statement of the aggregated regulatory asset determination to be included in the principal bond amount, not to exceed \$10.0 billion for any separate bond issue, and the maximum scheduled final maturity may not exceed 30 years, however the legal final maturity may be longer, based upon rating agency and market considerations. The bill would require the financing order to remain in effect notwithstanding the bankruptcy of the gas utility, the authority or their successors, or assignees. In addition, the bill would require the financing order to include terms ensuring that the imposition and collection of the bond charge are non-bypassable and to also include a true-up charge adjustment mechanism at least annually to correct any overcollections or under collections for the preceding year.

The bill would allow bond proceeds to be deposited with a trustee selected by TPFAs or held by the Comptroller of Public Accounts (CPA) in a dedicated trust fund outside of the treasury. Proceeds, including investment income, could only be used to reimburse gas utilities the regulatory asset amount as determined by the financing order, to pay the financing costs of issuing the bonds, and provide bond reserves. Under the provisions of the bill, any excess funds remaining could be used to provide credits to gas utility customers.

The bill would require that bonds would be solely the obligation of the assignee or issuing financing entity and would not be an obligation of the State or any gas utility company. According to TPFAs, no fiscal impact to the state is anticipated related to ongoing debt service associated with the customer rate relief bonds. Obligations would be payable solely from assets held in trust by the special purpose entity above.

The bill would exempt any profits made from the sale of the bonds from state and local taxation. It would also exempt the amount a gas utility collects in bond charges from its customers from state and local taxation.

The bill would require RRC to conduct a study of measure to mitigate catastrophic weather events by December 1, 2022.

The bill would take effect September 1, 2021.

## **Methodology**

Based on information provided by the CPA, the bill would exempt a gas utility's collection of bond charges from its customers which may have negative revenue implications to franchise tax, sales tax, gas utility pipeline tax, and miscellaneous gross receipt tax collections. Since the amount of bonds that would be issued and the collection of bond charges is unknown, the revenue impact to the state cannot be determined.

According to RRC, the agency would require General Revenue funding for \$714,780 and 7.0 FTEs each fiscal year for 3.0 financial analyst positions (\$233,586), 2.0 attorney positions (\$145,578), 2.0 administrative assistant positions (\$75,828), operating expenses (\$105,000), and employee benefits (\$154,788). In addition, the agency would incur a one-time cost of \$410,000 in fiscal year 2022 for a professional services contractor to review costs (\$200,000) and to conduct the study to mitigate catastrophic weather events (\$210,000). The positions would prepare financial orders and establish schedules, filing requirements, and processes for the assessment a gas utility's assets, develop an application review process to ensure the collection and enforcement of non-by-passable charges, and review transactions that occur during a natural or man-made disaster, system failure, or other catastrophic event for each regulatory asset filing.

Based on information provided by the Bond Review Board (BRB), the estimate for debt-service payments for the issuance of the maximum allowable revenue debt under the provisions of the bill (\$10.0 billion), is estimated to be \$666,360,720 each fiscal year. This analysis assumes that (1) the bonds would be payable from and secured by the Customer Rate Relief property, including charges; (2) the bonds would have a thirty-year maturity; (3) a fixed interest rate of 5.0 percent in fiscal year 2022 and 5.25 percent in fiscal year 2022 and for

each subsequent fiscal year; (4) all bonds in the amount of \$10.0 billion would be issued by September 1, 2021 with principal payments every August 1, and semi-annual interest payments every February 1 and August 1, beginning February 1, 2022; (5) cost of issuance and bond insurance fees are excluded; and (6) an approximate level of debt service payments throughout the life of the bonds.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated due to implementing the provisions of the bill.

Based on information provided by TPFA, the administrative duties associated with the issuance of the bonds and the creation of the special purpose entity would require General Revenue funding of \$173,118 in fiscal year 2022 and \$120,618 in fiscal year 2023 for a one-time cost to create a non-profit corporation to act as the issuing and financing entity (\$52,500) and for 1.0 attorney position with a salary of \$90,000 with benefit costs of \$30,618.

Based on information provided by the Public Utility Commission, no fiscal impact to the agency is anticipated.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Technology**

No fiscal implications related to technology are anticipated.

### **Local Government Impact**

The fiscal implications of the bill cannot be determined at this time.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 347 Public Finance Authority, 352 Bond Review Board, 455 Railroad Commission, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

**LBB Staff:** JMc, LBO, MW, DA, AJL, CMA, SD

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 21, 2021**

**TO:** Honorable Brian Birdwell, Chair, Senate Committee on Natural Resources & Economic Development

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1520** by Paddie (relating to certain extraordinary costs incurred by certain gas utilities relating to Winter Storm Uri and a study of measures to mitigate similar future costs; providing authority to issue bonds and impose fees and assessments.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1520, Committee Report 2nd House, Substituted : a negative impact of (\$168,233,296) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2022	(\$82,297,898)
2023	(\$85,935,398)
2024	(\$90,235,398)
2025	(\$94,735,398)
2026	(\$99,435,398)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Savings/(Cost) from Bond Proceeds-Rev Bonds 781</b>	<b>Probable Revenue (Loss) from General Revenue Fund 1</b>	<b>Probable Revenue (Loss) from Property Tax Relief Fund 304</b>
2022	(\$1,297,898)	(\$666,481,338)	(\$81,000,000)	(\$9,100,000)
2023	(\$835,398)	(\$666,481,338)	(\$85,100,000)	(\$9,600,000)
2024	(\$835,398)	(\$666,481,338)	(\$89,400,000)	(\$10,100,000)
2025	(\$835,398)	(\$666,481,338)	(\$93,900,000)	(\$10,600,000)
2026	(\$835,398)	(\$666,481,338)	(\$98,600,000)	(\$11,100,000)

<i>Fiscal Year</i>	<b>Change in Number of State Employees from FY 2021</b>
2022	8.0
2023	8.0
2024	8.0
2025	8.0
2026	8.0

## **Fiscal Analysis**

The bill would allow the Public Finance Authority (TPFA) to provide a method of financing for customer rate relief bonds authorized by the Railroad Commission (RRC) whose proceeds would be used to reduce the cost that customers would otherwise experience due to the extraordinary costs that gas utilities may incur to secure gas supply and provide service during natural or man-made disasters, system failures, and other catastrophic events and to restore gas utility systems after such events by providing securitization financing enabling gas utilities to recover these costs.

The bill would authorize the creation of a bankruptcy-remote special purpose entity designed to hold financial assets pledged as security for repayment of the bonds, such financial assets consisting of future assessments and fees receivable from utilities customers offsetting exceptional costs incurred during unusual circumstances.

The bill would require RRC to issue a financing order before requesting TPFA to issue the bonds on its behalf. The financing order must include a statement of the aggregated regulatory asset determination to be included in the principal bond amount, not to exceed \$10.0 billion for any separate bond issue, and the maximum scheduled final maturity may not exceed 30 years, however the legal final maturity may be longer, based upon rating agency and market considerations. The bill would require the financing order to remain in effect notwithstanding the bankruptcy of the gas utility, the authority or their successors, or assignees. In addition, the bill would require the financing order to include terms ensuring that the imposition and collection of the bond charge are non-bypassable and to also include a true-up charge adjustment mechanism at least annually to correct any overcollections or under collections for the preceding year.

The bill would allow bond proceeds to be deposited with a trustee selected by TPFA or held by the Comptroller of Public Accounts (CPA) in a dedicated trust fund outside of the treasury. Proceeds, including investment income, could only be used to reimburse gas utilities the regulatory asset amount as determined by the financing order, to pay the financing costs of issuing the bonds, and provide bond reserves. Under the provisions of the bill, any excess funds remaining could be used to provide credits to gas utility customers.

The bill would require that bonds would be solely the obligation of the assignee or issuing financing entity and would not be an obligation of the State or any gas utility company. According to TPFA, no fiscal impact to the state is anticipated related to ongoing debt service associated with the customer rate relief bonds. Obligations would be payable solely from assets held in trust by the special purpose entity above.

The bill would exempt any profits made from the sale of the bonds from state and local taxation. It would also exempt the amount a gas utility collects in bond charges from its customers from state and local taxation.

The bill would require RRC to conduct a study of measure to mitigate catastrophic weather events by December 1, 2022.

The bill would take effect September 1, 2021.

## **Methodology**

According to CPA, the bill includes broad language related to tax exemption policy. Subsection (b) of proposed Section 104.375 would exempt from state and local taxes a gas utility's collection of customer rate relief charges from its customers. This would have negative revenue implications for the franchise tax, sales tax, gas utility pipeline tax, and miscellaneous gross receipts tax. As the amount and timing of CRR bond issuance and associated collection of CRR charge amounts is unknown, the fiscal impact to the state of this provision cannot be determined.

According to the CPA, the exemption from taxation of "any transactions relating to customer rate relief bonds" provided by Subsection (a) of proposed Section 104.375 is ambiguous. The CPA indicates it would resolve the ambiguity by rule and construe such transactions to be only transactions to issue, transfer the ownership of, or provide other financial administration of the bonds. A purchase of a taxable item by a gas utility with proceeds from the bonds would not be deemed a transaction relating to the bonds eligible for tax exemption and would be subject to tax under Chapter 151, Tax Code unless otherwise exempted by that chapter. A purchase of a taxable

item, including computer hardware and software, office supplies, data processing services, utilities, and telecommunications services, as may be used by an agent, trustee, attorney, accountant, financial institution, or other service provider engaged in issuance or subsequent administration of the bonds would not be deemed a transaction relating to the bonds eligible for tax exemption and would be subject to tax under Chapter 151, Tax Code unless otherwise exempted by that chapter. A sale of gas or service by a gas utility, regardless whether or to what extent the sale depends on use of property financed with the bond proceeds, would not be deemed a transaction relating to the bonds and would be subject to tax under Chapters 151 and 182, Tax Code unless otherwise exempted by those chapters. Revenue received by a gas utility from customers as payment for gas service, regardless whether or to what extent provision of the gas service depends on use of property financed with the bond proceeds, would not be deemed revenue from a transaction relating to the bonds and would not be excludable from revenue under Section 171.1011, Tax Code. Revenue received by an agent, trustee, attorney, accountant, financial institution, or other service provider as compensation for the performance of services in the issuance, transfer of ownership, or administration of the bonds would be deemed revenue from a transaction relating to the bonds and excludable from revenue under Section 171.1011, Tax Code, if the receipt was separately stated from charges for other services provided to the issuer or owner of the bonds.

According to the CPA, subsection (c) of Section 104.375 would be construed as referring to the recognition of an expense for purposes of rate making by an agency with jurisdiction for regulating the rates of a gas utility and would not be construed to have any meaning with respect to the determination of tax liabilities for any tax administered by the CPA or claims for remuneration from the state.

The CPA reports that, subject to the interpretation of proposed Section 104.375 as outlined above, the proposed section would have negative fiscal implications in amounts that cannot be estimated, but an expression of legislative intent contrary to the interpretation of the proposed section as outlined above would result in estimated negative fiscal implications as indicated below, which include reserves for reductions in sales and use, franchise, and gross receipts tax revenue should claims by gas utility companies and financial service providers of exemption from sales and use and gross receipts taxes and exclusions of revenue for purposes of franchise tax based on the ambiguous language provided by proposed Section 104.375 prevail.

Based on information provided by CPA, the exemption would negatively impact revenue to the General Revenue Fund by \$81.0 million in fiscal year 2022 and \$85.1 million in fiscal year 2023 and to Property Tax Relief Fund No. 305 by \$9.1 million in fiscal year 2022 and \$9.6 million in fiscal year 2023.

According to RRC, the agency would require General Revenue funding for \$714,780 and 7.0 FTEs each fiscal year for 3.0 financial analyst positions (\$233,586), 2.0 attorney positions (\$145,578), 2.0 administrative assistant positions (\$75,828), operating expenses (\$105,000), and employee benefits (\$154,788). In addition, the agency would incur a one-time cost of \$410,000 in fiscal year 2022 for a professional services contractor to review costs (\$200,000) and to conduct the study to mitigate catastrophic weather events (\$210,000). The positions would prepare financial orders and establish schedules, filing requirements, and processes for the assessment a gas utility's assets, develop an application review process to ensure the collection and enforcement of non-by-passable charges, and review transactions that occur during a natural or man-made disaster, system failure, or other catastrophic event for each regulatory asset filing.

Based on information provided by the Bond Review Board (BRB), the estimate for debt-service payments for the issuance of the maximum allowable revenue debt under the provisions of the bill (\$10.0 billion), is estimated to be \$666,360,720 each fiscal year. This analysis assumes that (1) the bonds would be payable from and secured by the Customer Rate Relief property, including charges; (2) the bonds would have a thirty-year maturity; (3) a fixed interest rate of 5.0 percent in fiscal year 2022 and 5.25 percent in fiscal year 2022 and for each subsequent fiscal year; (4) all bonds in the amount of \$10.0 billion would be issued by September 1, 2021 with principal payments every August 1, and semi-annual interest payments every February 1 and August 1, beginning February 1, 2022; (5) cost of issuance and bond insurance fees are excluded; and (6) an approximate level of debt service payments throughout the life of the bonds.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated due to implementing the provisions of the bill.

Based on information provided by TPF, the administrative duties associated with the issuance of the bonds and the creation of the special purpose entity would require General Revenue funding of \$173,118 in fiscal year



2022 and \$120,618 in fiscal year 2023 for a one-time cost to create a non-profit corporation to act as the issuing and financing entity (\$52,500) and for 1.0 attorney position with a salary of \$90,000 with benefit costs of \$30,618.

Based on information provided by the Public Utility Commission, no fiscal impact to the agency is anticipated.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

**Technology**

No fiscal implications related to technology are anticipated.

**Local Government Impact**

The fiscal implications of the bill cannot be determined at this time.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 347 Public Finance Authority, 352 Bond Review Board, 455 Railroad Commission, 473 Public Utility Commission of Texas

**LBB Staff:** JMc, AJL, MW, DA, CMA, SD

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 20, 2021**

**TO:** Honorable Brian Birdwell, Chair, Senate Committee on Natural Resources & Economic Development

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1520** by Paddie (Relating to the recovery and securitization of certain extraordinary costs incurred by certain gas utilities; providing authority to issue bonds and impose fees and assessments.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1520, As Engrossed : a negative impact of (\$167,729,560) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2022	(\$81,914,780)
2023	(\$85,814,780)
2024	(\$90,114,780)
2025	(\$94,614,780)
2026	(\$99,314,780)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Savings/(Cost) from Bond Proceeds-Rev Bonds 781</b>	<b>Probable Revenue (Loss) from General Revenue Fund 1</b>	<b>Probable Revenue (Loss) from Property Tax Relief Fund 304</b>
2022	(\$914,780)	(\$666,481,338)	(\$81,000,000)	(\$9,100,000)
2023	(\$714,780)	(\$666,481,338)	(\$85,100,000)	(\$9,600,000)
2024	(\$714,780)	(\$666,481,338)	(\$89,400,000)	(\$10,100,000)
2025	(\$714,780)	(\$666,481,338)	(\$93,900,000)	(\$10,600,000)
2026	(\$714,780)	(\$666,481,338)	(\$98,600,000)	(\$11,100,000)

<i>Fiscal Year</i>	<b>Change in Number of State Employees from FY 2021</b>
2022	8.0
2023	8.0
2024	8.0
2025	8.0
2026	8.0

## **Fiscal Analysis**

The bill would allow the Public Finance Authority (TPFA) to provide a method of financing for customer rate relief bonds authorized by the Railroad Commission (RRC) whose proceeds would be used to reduce the cost that customers would otherwise experience due to the extraordinary costs that gas utilities may incur to secure gas supply and provide service during natural or man-made disasters, system failures, and other catastrophic events and to restore gas utility systems after such events by providing securitization financing enabling gas utilities to recover these costs.

The bill would authorize the creation of a bankruptcy-remote special purpose entity designed to hold financial assets pledged as security for repayment of the bonds, such financial assets consisting of future assessments and fees receivable from utilities customers offsetting exceptional costs incurred during unusual circumstances.

The bill would require RRC to issue a financing order before requesting TPFA to issue the bonds on its behalf. The financing order must include a statement of the aggregated regulatory asset determination to be included in the principal bond amount, not to exceed \$10.0 billion for any separate bond issue, and the maximum scheduled final maturity may not exceed 30 years, however the legal final maturity may be longer, based upon rating agency and market considerations. The bill would require the financing order to remain in effect notwithstanding the bankruptcy of the gas utility, the authority or their successors, or assignees. In addition, the bill would require the financing order to include terms ensuring that the imposition and collection of the bond charge are non-bypassable and to also include a true-up charge adjustment mechanism at least annually to correct any overcollections or under collections for the preceding year.

The bill would allow bond proceeds to be deposited with a trustee selected by TPFA or held by the Comptroller of Public Accounts (CPA) in a dedicated trust fund outside of the treasury. Proceeds, including investment income, could only be used to reimburse gas utilities the regulatory asset amount as determined by the financing order, to pay the financing costs of issuing the bonds, and provide bond reserves. Under the provisions of the bill, any excess funds remaining could be used to provide credits to gas utility customers.

The bill would require that bonds would be solely the obligation of the assignee or issuing financing entity and will not be an obligation of the State or any gas utility company. According to TPFA, no fiscal impact to the state is anticipated related to ongoing debt service associated with the customer rate relief bonds. Obligations would be payable solely from assets held in trust by the special purpose entity above.

The bill would exempt any profits made from the sale of the bonds from state and local taxation. It would also exempt the amount a gas utility collects in bond charges from its customers from state and local taxation.

The bill would take effect September 1, 2021.

## **Methodology**

Based on information provided by CPA, the exemption of any profits related to customer rate relief bonds from state and local taxation could be interpreted as exempting fees paid to agents, trustees, attorneys, and other professional service providers involved in bond administration from revenue for franchise tax purposes. The bill could also exempt from sales tax any purchase of taxable items used during bond administration or exempt from sales tax the purchase of taxable items by a gas utility that received bond proceeds. The bill would exempt a gas utility's collection of bond charges from its customers which may have negative revenue implications to franchise tax, sales tax, gas utility pipeline tax, and miscellaneous gross receipt tax collections. According to CPA, the exemption would negatively impact revenue to the General Revenue Fund by \$81.0 million in fiscal year 2022 and \$85.1 million in fiscal year 2023 and to Property Tax Relief Fund No. 305 by \$9.1 million in fiscal year 2022 and \$9.6 million in fiscal year 2023.

According to RRC, the agency would require General Revenue funding for \$714,780 and 7.0 FTEs each fiscal year for 3.0 financial analyst positions (\$233,586), 2.0 attorney positions (\$145,578), 2.0 administrative assistant positions (\$75,828), operating expenses (\$105,000), and employee benefits (\$154,788). In addition, the agency would incur a one-time cost of \$200,000 in fiscal year 2022 for a professional services contractor to review costs. The positions would prepare financial orders and establish schedules, filing requirements, and

processes for the assessment a gas utility's assets, develop an application review process to ensure the collection and enforcement of non-by-passable charges, and review transactions that occur during a natural or man-made disaster, system failure, or other catastrophic event for each regulatory asset filing.

Based on information provided by the Bond Review Board (BRB), the estimate for debt-service payments for the issuance of the maximum allowable revenue debt under the provisions of the bill (\$10.0 billion), is estimated to be \$666,360,720 each fiscal year. This analysis assumes that (1) the bonds will be payable from and secured by the Customer Rate Relief property, including charges; (2) the bonds will have a thirty-year maturity; (3) a fixed interest rate of 5.0 percent in fiscal year 2022 and 5.25 percent in fiscal year 2022 and for each subsequent fiscal year; (4) all bonds in the amount of \$10.0 billion will be issued by September 1, 2021 with principal payments every August 1, and semi-annual interest payments every February 1 and August 1, beginning February 1, 2022; (5) cost of issuance and bond insurance fees are excluded; and (6) an approximate level of debt service payments throughout the life of the bonds.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated due to implementing the provisions of the bill.

Based on information provided by TPFA, the administrative duties associated with the issuance of the bonds and the creation of the special purpose entity would require 1.0 attorney position with a salary of \$90,000 with benefit costs of \$30,618. This analysis assumes the costs would be funded with revenue from bond proceeds.

Based on information provided by the Public Utility Commission, no fiscal impact to the agency is anticipated.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Technology**

No fiscal implications related to technology are anticipated.

### **Local Government Impact**

The fiscal implications of the bill cannot be determined at this time.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 347 Public Finance Authority, 352 Bond Review Board, 455 Railroad Commission, 473 Public Utility Commission of Texas

**LBB Staff:** JMc, AJL, MW, DA, CMA, SD

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**March 28, 2021**

**TO:** Honorable Craig Goldman, Chair, House Committee on Energy Resources

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1520** by Paddie (Relating to the recovery and securitization of certain extraordinary costs incurred by certain gas utilities; providing authority to issue bonds and impose fees and assessments.),  
**Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1520, Committee Report 1st House, Substituted : a negative impact of (\$1,629,560) through the biennium ending August 31, 2023. Additionally, as the amount and timing of the customer rate relief bond issuance and associated collection of customer rate relief bond charge amounts are unknown, the fiscal impact to revenue collections cannot be determined.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2022	(\$914,780)
2023	(\$714,780)
2024	(\$714,780)
2025	(\$714,780)
2026	(\$714,780)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Savings/(Cost) from Bond Proceeds-Rev Bonds 781</b>	<b>Change in Number of State Employees from FY 2021</b>
2022	(\$914,780)	(\$666,481,338)	8.0
2023	(\$714,780)	(\$666,481,338)	8.0
2024	(\$714,780)	(\$666,481,338)	8.0
2025	(\$714,780)	(\$666,481,338)	8.0
2026	(\$714,780)	(\$666,481,338)	8.0

**Fiscal Analysis**

The bill would allow the Public Finance Authority (TPFA) to provide a method of financing for customer rate relief bonds authorized by the Railroad Commission (RRC) whose proceeds would be used to reduce the cost that customers would otherwise experience due to the extraordinary costs that gas utilities may incur to secure gas supply and provide service during natural or man-made disasters, system failures, and other catastrophic

events and to restore gas utility systems after such events by providing securitization financing enabling gas utilities to recover these costs.

The bill would authorize the creation of a bankruptcy-remote special purpose entity designed to hold financial assets pledged as security for repayment of the bonds, such financial assets consisting of future assessments and fees receivable from utilities customers offsetting exceptional costs incurred during unusual circumstances.

The bill would require RRC to issue a financing order before requesting TPFA to issue the bonds on its behalf. The financing order must include a statement of the aggregated regulatory asset determination to be included in the principal bond amount, not to exceed \$10.0 billion for any separate bond issue, and the maximum scheduled final maturity may not exceed 30 years, however the legal final maturity may be longer, based upon rating agency and market considerations. The bill would require the financing order to remain in effect notwithstanding the bankruptcy of the gas utility, the authority or their successors, or assignees. In addition, the bill would require the financing order to include terms ensuring that the imposition and collection of the bond charge are non-bypassable and to also include a true-up charge adjustment mechanism at least annually to correct any overcollections or under collections for the preceding year.

The bill would allow bond proceeds to be deposited with a trustee selected by TPFA or held by the Comptroller of Public Accounts (CPA) in a dedicated trust fund outside of the treasury. Proceeds, including investment income, could only be used to reimburse gas utilities the regulatory asset amount as determined by the financing order, to pay the financing costs of issuing the bonds, and provide bond reserves. Under the provisions of the bill, any excess funds remaining could be used to provide credits to gas utility customers.

The bill would require that bonds would be solely the obligation of the assignee or issuing financing entity and will not be an obligation of the State or any gas utility company. According to TPFA, no fiscal impact to the state is anticipated related to ongoing debt service associated with the customer rate relief bonds. Obligations would be payable solely from assets held in trust by the special purpose entity above.

The bill would exempt any profits made from the sale of the bonds from state and local taxation. It would also exempt the amount a gas utility collects in bond charges from its customers from state and local taxation.

The bill would take effect September 1, 2021.

## **Methodology**

Based on information provided by the CPA, the exemption of any profits related to customer rate relief bonds from state and local taxation could be interpreted as exempting fees paid to agents, trustees, attorneys, and other professional service providers involved in bond administration from revenue for franchise tax purposes. The bill could also exempt from sales tax any purchase of taxable items used during bond administration or exempt from sales tax the purchase of taxable items by a gas utility that received bond proceeds. The bill would exempt a gas utility's collection of bond charges from its customers which may have negative revenue implications to franchise tax, sales tax, gas utility pipeline tax, and miscellaneous gross receipt tax collections. Since the amount of bonds that would be issued and the collection of bond charges is unknown, the revenue impact to the state cannot be determined.

According to the RRC, the agency would require General Revenue funding for \$714,780 and 7.0 FTEs each fiscal year for 3.0 financial analyst positions (\$233,586), 2.0 attorney positions (\$145,578), 2.0 administrative assistant positions (\$75,828), operating expenses (\$105,000), and employee benefits (\$154,788). In addition, the agency would incur a one-time cost of \$200,000 in fiscal year 2022 for a professional services contractor to review costs. The positions would prepare financial orders and establish schedules, filing requirements, and processes for the assessment a gas utility's assets, develop an application review process to ensure the collection and enforcement of non-by-passable charges, and review transactions that occur during a natural or man-made disaster, system failure, or other catastrophic event for each regulatory asset filing.

Based on information provided by the Bond Review Board (BRB), the estimate for debt-service payments for the issuance of the maximum allowable revenue debt under the provisions of the bill (\$10.0 billion), is estimated to be \$666,360,720 each fiscal year. This analysis assumes that (1) the bonds will be payable from

and secured by the Customer Rate Relief property, including charges; (2) the bonds will have a thirty-year maturity; (3) a fixed interest rate of 5.0 percent in fiscal year 2022 and 5.25 percent in fiscal year 2022 and for each subsequent fiscal year; (4) all bonds in the amount of \$10.0 billion will be issued by September 1, 2021 with principal payments every August 1, and semi-annual interest payments every February 1 and August 1, beginning February 1, 2022; (5) cost of issuance and bond insurance fees are excluded; and (6) an approximate level of debt service payments throughout the life of the bonds.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated due to implementing the provisions of the bill.

Based on information provided by the TPFA, the administrative duties associated with the issuance of the bonds and the creation of the special purpose entity would require 1.0 attorney position with a salary of \$90,000 with benefit costs of \$30,618. This analysis assumes the costs would be funded with revenue from bond proceeds.

Based on information provided by the Public Utility Commission, no fiscal impact to the agency is anticipated.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Technology**

No fiscal implications related to technology are anticipated.

### **Local Government Impact**

The fiscal implications of the bill cannot be determined at this time.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 347 Public Finance Authority, 352 Bond Review Board, 455 Railroad Commission, 473 Public Utility Commission of Texas

**LBB Staff:** JMc, AJL, MW, DA, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**March 21, 2021**

**TO:** Honorable Craig Goldman, Chair, House Committee on Energy Resources

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1520** by Paddie (Relating to the recovery and securitization of extraordinary costs incurred by certain gas utilities; authority to issue bonds.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1520, As Introduced : a negative impact of (\$1,629,560) through the biennium ending August 31, 2023. Additionally, as the amount and timing of the customer rate relief bond issuance and associated collection of customer rate relief bond charge amounts are unknown, the fiscal impact to revenue collections cannot be determined.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2022	(\$914,780)
2023	(\$714,780)
2024	(\$714,780)
2025	(\$714,780)
2026	(\$714,780)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Savings/(Cost) from Bond Proceeds-Rev Bonds 781</b>	<b>Change in Number of State Employees from FY 2021</b>
2022	(\$914,780)	(\$666,360,720)	7.0
2023	(\$714,780)	(\$666,360,720)	7.0
2024	(\$714,780)	(\$666,360,720)	7.0
2025	(\$714,780)	(\$666,360,720)	7.0
2026	(\$714,780)	(\$666,360,720)	7.0

**Fiscal Analysis**

The bill would allow the Public Finance Authority (TPFA) to provide a method of financing for customer rate relief bonds authorized by the Railroad Commission (RRC) whose proceeds would be used to reduce the cost that customers would otherwise experience due to the extraordinary costs that gas utilities may incur to secure gas supply and provide service during natural or man-made disasters, system failures, and other catastrophic events and to restore gas utility systems after such events by providing securitization financing enabling gas utilities to recover these costs.



The bill would authorize the creation of a bankruptcy-remote special purpose entity designed to hold financial assets pledged as security for repayment of the bonds, such financial assets consisting of future assessments and fees receivable from utilities customers offsetting exceptional costs incurred during unusual circumstances.

The bill would require RRC to issue a financing order before requesting TPFA to issue the bonds on its behalf. The financing order must include a statement of the aggregated regulatory asset determination to be included in the principal bond amount, not to exceed \$10.0 billion for any separate bond issue, and the maximum scheduled final maturity may not exceed 30 years, however the legal final maturity may be longer, based upon rating agency and market considerations. The bill would require the financing order to remain in effect notwithstanding the bankruptcy of the gas utility, the authority or their successors, or assignees. In addition, the bill would require the financing order to include terms ensuring that the imposition and collection of the bond charge are non-bypassable and to also include a true-up charge adjustment mechanism at least annually to correct any overcollections or under collections for the preceding year.

The bill would allow bond proceeds to be deposited with a trustee selected by TPFA or held by the Comptroller of Public Accounts (CPA) in a dedicated trust fund outside of the treasury. Proceeds, including investment income, could only be used to reimburse gas utilities the regulatory asset amount as determined by the financing order, to pay the financing costs of issuing the bonds, and provide bond reserves. Under the provisions of the bill, any excess funds remaining could be used to provide credits to gas utility customers.

The bill would require that bonds would be solely the obligation of the assignee or issuing financing entity and will not be an obligation of the State or any gas utility company. According to TPFA, no fiscal impact to the state is anticipated related to ongoing debt service associated with the customer rate relief bonds. Obligations would be payable solely from assets held in trust by the special purpose entity above.

The bill would exempt any profits made from the sale of the bonds from state and local taxation. It would also exempt the amount a gas utility collects in bond charges from its customers from state and local taxation.

The bill would take effect September 1, 2021.

## **Methodology**

Based on information provided by the CPA, the exemption of any profits related to customer rate relief bonds from state and local taxation could be interpreted as exempting fees paid to agents, trustees, attorneys, and other professional service providers involved in bond administration from revenue for franchise tax purposes. The bill could also exempt from sales tax any purchase of taxable items used during bond administration or exempt from sales tax the purchase of taxable items by a gas utility that received bond proceeds. The bill would exempt a gas utility's collection of bond charges from its customers which may have negative revenue implications to franchise tax, sales tax, gas utility pipeline tax, and miscellaneous gross receipt tax collections. Since the amount of bonds that would be issued and the collection of bond charges is unknown, the revenue impact to the state cannot be determined.

According to the RRC, the agency would require General Revenue funding for \$714,780 and 7.0 FTEs each fiscal year for 3.0 financial analyst positions (\$233,586), 2.0 attorney positions (\$145,578), 2.0 administrative assistant positions (\$75,828), operating expenses (\$105,000), and employee benefits (\$154,788). In addition, the agency would incur a one-time cost of \$200,000 in fiscal year 2022 for a professional services contractor to review costs. The positions would prepare financial orders and establish schedules, filing requirements, and processes for the assessment a gas utility's assets, develop an application review process to ensure the collection and enforcement of non-by-passable charges, and review transactions that occur during a natural or man-made disaster, system failure, or other catastrophic event for each regulatory asset filing.

Based on information provided by the Bond Review Board (BRB), the estimate for debt-service payments for the issuance of the maximum allowable revenue debt under the provisions of the bill (\$10.0 billion), is estimated to be \$666,360,720 each fiscal year. This analysis assumes that (1) the bonds will be payable from and secured by the Customer Rate Relief property, including charges; (2) the bonds will have a thirty-year maturity; (3) a fixed interest rate of 5.0 percent in fiscal year 2022 and 5.25 percent in fiscal year 2022 and for each subsequent fiscal year; (4) all bonds in the amount of \$10.0 billion will be issued by September 1, 2021

with principal payments every August 1, and semi-annual interest payments every February 1 and August 1, beginning February 1, 2022; (5) cost of issuance and bond insurance fees are excluded; and (6) an approximate level of debt service payments throughout the life of the bonds.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated due to implementing the provisions of the bill.

Based on information provided by the TPFA, administrative costs associated with the issuance of the bonds would be funded with revenue from bond proceeds.

Based on information provided by the Public Utility Commission, no fiscal impact to the agency is anticipated.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Technology**

No fiscal implications related to technology are anticipated.

### **Local Government Impact**

The fiscal implications of the bill cannot be determined at this time.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 347 Public Finance Authority, 352 Bond Review Board, 455 Railroad Commission, 473 Public Utility Commission of Texas

**LBB Staff:** JMc, AJL, MW, DA, SD