

BILL ANALYSIS

C.S.H.B. 1500
By: Holland
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Public Utility Commission of Texas (PUC) oversees the electric, water and wastewater, and telecommunications utilities in Texas and has complete authority to oversee ERCOT. Following Winter Storm Uri in 2021, the legislature made numerous changes to the electric industry and moved up the next sunset review of the PUC, ERCOT, and the Office of Public Utility Counsel (OPUC) to keep a close watch on these changes. Overall, the Sunset Advisory Commission found that the PUC was ill prepared to become a more active overseer of ERCOT and market participants following Winter Storm Uri. The sunset commission also found that the PUC is underresourced given its critical responsibilities and the work that still lies ahead. Beyond additional resources, the sunset commission found that the PUC needs more formalized structures and processes when giving ERCOT direction and recommended changes to enhance the transparency of PUC decision-making. Other recommendations made by the sunset commission seek to improve the PUC's water and wastewater regulation, as well as its public communications and data management. C.S.H.B. 1500 seeks to continue the PUC and OPUC until 2029, which, in turn, also sets the next sunset review of ERCOT for the 2028-2029 review cycle. C.S.H.B. 1500 also seeks to revise the provisions governing these entities to implement certain of the sunset commission's recommendations.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 9 of this bill.

ANALYSIS

C.S.H.B. 1500 amends the Utilities Code to continue the Public Utility Commission of Texas (PUC) and the Office of Public Utility Counsel (OPUC) under the Texas Sunset Act until September 1, 2029, which, in turn, also sets the next sunset review of ERCOT for the 2028-2029 review cycle. The bill removes language subjecting the Public Utility Regulatory Act and statutory provisions governing OPUC to expiration under the Texas Sunset Act and further sets out and revises provisions governing the PUC and ERCOT as detailed below.

C.S.H.B. 1500 adds an additional PUC commissioner as an ex officio nonvoting member of ERCOT's board of directors, sets out procedures for the PUC's presiding officer to designate commissioners to serve in this position for one-year terms, and provides for the first designated member's term to begin January 1, 2024.

C.S.H.B. 1500 does the following with respect to directives from the PUC to ERCOT:

- specifies that the PUC may direct ERCOT to take an official action only through a contested case, rulemaking, a memorandum, or a written order and expressly prohibits the PUC from issuing a verbal directive except in an urgent or emergency situation that poses an imminent threat to public health, public safety, or power grid reliability;
- requires the PUC to adopt rules that:
 - specify the types of directives the PUC may issue through a contested case, rulemaking, memorandum, or written order;
 - establish the conditions under which a PUC vote is required before issuing a directive;
 - require that proposed directives be included as an item on a PUC meeting agenda and require the PUC to allow members of the public an opportunity to comment on the agenda item;
 - establish a reasonable timeline for the release before a PUC meeting of discussion materials relevant to any proposed directives included as agenda items for that meeting; and
 - establish criteria for determining whether a situation is urgent or an emergency for purposes of issuing verbal directives and establish a process by which the PUC will issue such directives to ERCOT; and
- requires the PUC, after using a verbal directive, to provide written documentation of the directive to ERCOT not later than 72 hours after the applicable urgent or emergency situation ends.

C.S.H.B. 1500 clarifies that protocols, including rules, adopted by ERCOT and enforcement actions taken by ERCOT under delegated authority from the PUC are subject to PUC oversight and review and may not take effect before receiving PUC approval and further clarifies that the PUC's authority over ERCOT protocols includes the ability to approve, reject, or remand them with suggested modifications.

C.S.H.B. 1500 requires the agenda for each regular PUC meeting to include public testimony as an agenda item and requires the PUC to allow the public to comment on each meeting agenda item unrelated to a contested case and other matters under PUC jurisdiction, except those concerning contested cases. The bill limits the topics the ERCOT board may discuss in executive session to only contracts, competitively sensitive information, information related to the security of the regional electrical network, or another matter the PUC would be authorized to consider in a closed meeting under state open meetings law. The bill provides for the authority of ERCOT's governing body or a subcommittee to close such a session to PUC commissioners, including the commissioners serving as ex officio ERCOT board members, in addition to the public.

C.S.H.B. 1500 requires the PUC to develop and update at least once every two years an agency-wide strategic communications plan for improving the effectiveness of its communications with the public, market participants, and other relevant audiences and responding to changing communications needs. The PUC must include in that plan goals, objectives, and metrics to assess PUC efforts.

C.S.H.B. 1500 does the following with respect to PUC and ERCOT reporting requirements:

- consolidates the PUC's biennial reports regarding the scope of competition in the electric and telecommunications markets with the PUC's general biennial report;
- clarifies that water and sewer service regulation is a type of utility regulation for which the PUC makes suggestions for improvement in its general biennial report;
- creates a new biennial PUC electric industry report, which must be prepared in consultation with ERCOT, submitted to the legislature, and presented in plain language and must include the following:

- the information currently provided in the annual report submitted to the PUC by ERCOT regarding transmission and distribution constraints and system needs, which is eliminated by the bill;
- a summary of key findings from the biennial ERCOT grid reliability assessment and the report of the results of the biennial study regarding the need for increased transmission and generation capacity throughout Texas; and
- an outline of basic information regarding the electric grid and market in Texas, including generation capacity, customer demand, and transmission capacity currently installed on the grid and projected in the future;
- codifies the annual conflicts of interest report from the PUC and ERCOT to the legislature provided for in S.B. 3, 87th Legislature, Regular Session, 2021; and
- eliminates the biennial PUC report on usage of the no-call list and the biennial PUC report regarding competitive renewable energy zones.

C.S.H.B. 1500 updates PUC commissioner training requirements to apply certain of the Sunset Advisory Commission's across-the-board recommendations and provides for the transition to the new requirements for commissioners appointed before the bill's effective date. The bill postpones from September 1, 2023, until September 1, 2029, the expiration of provisions authorizing the PUC to hire outside assistance for certain matters involving the Federal Energy Regulatory Commission.

C.S.H.B. 1500 amends the Water Code to set the maximum length of the initial appointment of a temporary manager for a water or sewer utility through use of an emergency order at 360 days. The bill authorizes the order to be renewed once for an additional period not to exceed 360 days or, if the utility is undergoing a sale, transfer, merger, consolidation, or acquisition, to be renewed for a reasonable time until the sale, transfer, merger, consolidation, or acquisition is complete.

C.S.H.B. 1500 repeals the following provisions:

- Section 304.201, Business & Commerce Code;
- Section 31.003, Utilities Code;
- Section 39.155(b), Utilities Code;
- Section 39.904(j), Utilities Code;
- Section 52.006, Utilities Code; and
- Section 34, Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1500 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute replaces the requirement in the introduced for the PUC to provide written documentation of a verbal directive after ERCOT has been following the verbal directive for more than 72 hours with a requirement for the PUC to provide written documentation of a verbal directive to ERCOT not later than 72 hours after the end of the urgent or emergency situation for which the verbal directive was given.

The substitute includes provisions not in the introduced postponing from September 1, 2023, until September 1, 2029, the expiration of provisions authorizing the PUC to hire outside assistance for certain matters involving the Federal Energy Regulatory Commission.