

BILL ANALYSIS

Senate Research Center
88R16321 JXC-F

S.B. 6
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Business & Commerce
3/21/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Winter Storm Uri revealed the failures in our electricity market, specifically the lack of reliability. While reforms from S.B. 3, 87th Legislative Session, addressed many critical system issues, S.B. 6 seeks to address increased reliability related specifically to dispatchable generation. S.B. 6 guarantees "steel in the ground" to serve as the state's energy insurance policy. It also provides low-interest loans for existing dispatchable generators as a mechanism for generators to access capital needed to maintain and make necessary improvements to existing generation resources.

As proposed, S.B. 6 amends current law relating to the establishment of the Texas Energy Insurance Program and other funding mechanisms to support the construction and operation of electric generating facilities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 1.15 and SECTION 2.01 (Section 34.0108, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. TEXAS ENERGY INSURANCE PROGRAM

SECTION 1.01. Amends Section 11.003(16), Utilities Code, to redefine "rate."

SECTION 1.02. Reenacts Section 31.002(6), Utilities Code, as amended by Chapters 255 (H.B. 1572) and 389 (S.B. 1202), Acts of the 87th Legislature, Regular Session, 2021, and amends it, to redefine "electric utility."

SECTION 1.03. Amends Section 31.002, Utilities Code, by amending Subdivisions (10), (15), (19), and (20) and adding Subdivisions (15-a) and (18-a.) to redefine "power generation company," "rate," "transmission and distribution utility," and "transmission service" and define "reliability asset" and "Texas Energy Insurance Program."

SECTION 1.04. Amends Section 33.001, Utilities Code, by adding Subsection (b), to provide that the governing body of a municipality does not have jurisdiction over the Texas Energy Insurance Program.

SECTION 1.05. Amends Section 33.008(a), Utilities Code, as follows:

(a) Prohibits a municipality from imposing a charge for the use of a municipal street, alley, or public way to deliver electricity to a retail customer on certain entities, including the Texas Energy Insurance Program. Makes nonsubstantive changes.

SECTION 1.06. Amends Section 35.004, Utilities Code, by amending Subsections (b) and (c) and adding Subsections (c-1), (c-2), and (i), as follows:

(b) Requires the Public Utility Commission of Texas (PUC) to ensure that an electric utility or transmission and distribution utility provides nondiscriminatory access to

wholesale transmission service for certain entities, including the Texas Energy Insurance Program.

(c) Provides that the Texas Energy Insurance Program is not a third party for the purposes of this subsection.

(c-1) Requires that costs of transmission and distribution utility service for the Texas Energy Insurance Program be allocated to all retail customers in the Electric Reliability Council of Texas (ERCOT) power region.

(c-2) Provides that the Texas Energy Insurance Program will not bear costs related to the interconnection of a reliability asset.

(i) Provides that services provided by the Texas Energy Insurance Program when deployed under Section 38.079 are not considered to be ancillary services.

SECTION 1.07. Amends Section 35.005, Utilities Code, by amending Subsection (a) and adding Subsections (d), (e), and (f), as follows:

(a) Authorizes the PUC to require an electric utility to provide transmission service at wholesale to certain entities, including the Texas Energy Insurance Program, and to determine whether terms for the transmission service are reasonable.

(d) Requires the independent organization certified under Section 39.151 (Essential Organizations) for the ERCOT power region, to ensure customers in the ERCOT power region can receive promptly the benefits associated with the Texas Energy Insurance Program, to work with transmission service providers to ensure that each reliability asset is fully interconnected in the ERCOT power region not later than the 270th day after the date the interconnection agreement is executed. Requires an electric utility that enters into an interconnection agreement for a reliability asset to complete construction of any facilities necessary to interconnect the reliability asset not later than the 270th day after the date the interconnection agreement is executed. Prohibits the electric utility from recovering its reasonable costs of constructing the facilities during the period that begins on the 271st day after the date the interconnection agreement is executed and ending on the date the construction of the facilities necessary to interconnect the reliability asset is complete.

(e) Authorizes the PUC, notwithstanding Subsection (d), to extend the 270-day deadline established by that subsection after notice, hearing, and a determination on a showing of good cause that fully interconnecting the reliability asset before the 270th day is not feasible.

(f) Provides that the 270-day deadline established by Subsection (d), if the PUC receives an application under Chapter 37 (Certificates of Convenience and Necessity) for a certificate of convenience and necessity related to facilities necessary to interconnect a reliability asset, as described by Subsection (d), and does not approve the application before the 90th day after the date the PUC received the application, is extended one day for each day after the 90th day in which the PUC does not approve the application.

SECTION 1.08. Amends Section 36.001, Utilities Code, by adding Subsection (c), as follows:

(c) Authorizes the PUC to regulate the rates of certified entities in the Texas Energy Insurance Program related to each reliability asset only to the extent provided by Subchapter K. Provides that no other provision of Chapter 36 (Rates) applies to rates related to a reliability asset.

SECTION 1.09. Amends Chapter 36, Utilities Code, by adding Subchapter K, as follows:

SUBCHAPTER K. TEXAS ENERGY INSURANCE PROGRAM

Sec. 36.501. RATES FOR RELIABILITY ASSETS. (a) Requires the PUC to ensure that each entity certified to be part of the Texas Energy Insurance Program under Section 39.360 receives a regulated rate that recognizes the critical service the reserve provides to customers in the ERCOT power region.

(b) Requires that the rate be based on actual costs, including variable costs, allowance for funds used during construction, and all costs of constructing, owning, operating, and maintaining reliability assets. Entitles a certified entity to recover the actual costs associated with each reliability asset operated by the entity.

(c) Requires the PUC, in determining the rate, to consider the critical service the Texas Energy Insurance Program provides to customers in the ERCOT power region.

(d) Requires the PUC to allocate each rate to each transmission and distribution utility, municipally owned utility, and electric cooperative in the ERCOT power region, based on the cooperative's or utility's proportionate share of overall annual system load. Prohibits the rate from being based on peak demand.

(e) Requires each retail electric provider, municipally owned utility, and electric cooperative in the ERCOT power region to allocate the rates to each retail customer based on the customer's annual system demand, not peak demand.

(f) Requires the PUC, not later than the 90th day after the date a certified entity submits to the PUC a rate request for a reliability asset, to approve the rates and order each retail electric provider, municipally owned utility, and electric cooperative in the ERCOT power region, beginning on the commercial operation date of each reliability asset, to:

(1) collect the rate from the provider's, utility's, or cooperative's retail customers in the ERCOT power region; and

(2) remit the payment to the independent organization certified under Section 39.151 monthly.

(g) Requires the independent organization certified under Section 39.151 to remit the rate revenue to certified entities monthly.

(h) Requires the PUC to establish rates for each reliability asset to include:

(1) at least the rate of return on equity stated in the relevant application under Section 39.360(h);

(2) a 50-50 debt to equity ratio;

(3) a 40-year depreciable life;

(4) allowance for funds used during construction;

(5) costs associated with ownership, operations, maintenance, fuel, and other variable costs;

(6) reasonably incurred attorney's fees; and

(7) the estimated costs of constructing the reliability asset before construction has begun and, after the reliability asset is complete, the actual cost of the asset as described by Subsection (b).

(i) Requires the PUC, not later than the 90th day after the commercial operation date of a reliability asset, to adjust the previously established rates for the asset to reflect the actual construction costs and to reconcile any over-collections or under-collections.

(j) Requires the PUC to adjust the rate for each reliability asset annually to reflect changes to the costs of ownership, operations and maintenance, and variable costs, including fuel costs and interest rates, to reflect the actual costs as described by Subsection (b) incurred in the preceding year. Provides that the review for a rate adjustment under this subsection is limited to verifying the accuracy of the incurred costs.

Sec. 36.502. STRANDED COST RECOVERY. (a) Defines "net book value of reliability assets" and "stranded costs."

(b) Authorizes the entity that formerly held a certificate issued under Section 39.360, if the PUC revokes the certificate, to recover in the manner provided by this section all of the entity's net, variable, nonmitigable stranded costs incurred in constructing reliability assets, purchasing fuel, and providing electric generation service in the ERCOT power region.

(c) Authorizes the entity that owns a reliability asset, if the PUC determines that the asset is no longer able to serve the purpose described by Section 38.079, to recover in the manner provided by this section the entity's net, variable, nonmitigable stranded costs that were incurred in constructing the reliability asset, purchasing fuel for the asset, and providing electric generation service in the ERCOT power region with the asset.

(d) Requires an entity, to recover stranded costs under this section, to submit to the PUC an application for recovery of the costs not later than the 30th calendar day after the date the PUC issues the order that revokes the certificate under Subsection (b) or the date of the PUC's determination described by Subsection (c), as applicable. Requires that an application include a description, supported by the sworn affidavits of a corporate officer of the entity and a stranded cost expert who has at least 10 years of professional experience in the electric industry in the ERCOT power region, of the following:

(1) the actual cost of each relevant reliability asset completed by the entity and each relevant reliability asset under construction by the entity at the time of decertification;

(2) the total net book value of each relevant reliability asset; and

(3) the expected rate of return on the remaining depreciable life of each relevant reliability asset.

(e) Authorizes PUC staff, not later than the 20th calendar day after the date an application is submitted to the PUC under Subsection (d), to file a motion with the PUC stating the staff's finding that the application is materially deficient. Requires that the motion include a detailed explanation of the claimed material deficiencies. Provides that if the presiding officer of the PUC determines that the application is materially deficient:

(1) the entity is prohibited from recovering the stranded costs unless the entity submits corrections to the PUC not later than the 30th calendar day after the date the presiding officer makes the determination of deficiency; and

(2) the deadline established by Subsection (f) is extended one day for each day in which the application is materially deficient, as determined by the

presiding officer of the PUC, and the entity has not yet corrected the deficiency.

(f) Requires the PUC to issue a final order to award recovery of stranded costs to the entity not later than the 90th calendar day after the date the entity files a complete application.

(g) Requires that a PUC order granting recovery of stranded costs under this section:

(1) allocate collection of the stranded costs among each transmission and distribution utility, municipally owned utility, and electric cooperative providing service in the ERCOT power region in the manner provided by Section 36.501;

(2) order each transmission and distribution utility, municipally owned utility, and electric cooperative in the ERCOT power region to include a rider on the utility's or cooperative's tariff to allow for collection of the stranded costs from customers in the ERCOT power region allocated based on yearly consumption;

(3) order recovery of the stranded costs from all wholesale or retail customers of transmission and distribution utilities, municipally owned utilities, and electric cooperatives that exist on the date of the order and from any new customers served during the recovery period; and

(4) prohibit a wholesale or retail customer of a transmission and distribution utility, municipally owned utility, or electric cooperative in the ERCOT power region from avoiding the stranded cost recovery charges.

(h) Requires customers, for the purposes of establishing stranded cost recovery rates in the rider under Subsection (g), to be classified according to the rate classes established by the most recently completed base-rate proceeding of each transmission and distribution utility, municipally owned utility, or electric cooperative.

(i) Provides that a stranded cost recovery rider established under this section is prohibited from being in effect for more than eight years and is required to provide for the recovery of the full amount of stranded costs awarded by the PUC during that period. Requires the PUC, if after five years of collection under the rider the full amount owed to the entity has not been recovered, to initiate a proceeding to adjust the amount of the rider to ensure full recovery before the expiration of the eight-year period.

SECTION 1.10. Amends Subchapter D, Chapter 38, Utilities Code, by adding Section 38.079, as follows:

Sec. 38.079. TEXAS ENERGY INSURANCE PROGRAM. Authorizes reliability assets to be dispatched by the independent organization certified under Section 39.151 for the ERCOT power region:

(1) when operating reserves drop below 1,000 megawatts and the independent organization does not expect operating reserves to recover for at least 30 minutes; or

(2) up to 336 hours per year for testing purposes and as directed by the independent organization.

SECTION 1.11. Amends Section 39.154, Utilities Code, by adding Subsection (f), as follows:

(f) Provides that a reliability asset, for purposes of Section 39.154 (Limitation of Ownership of Installed Capacity) and Section 39.158 (Mergers and Consolidations), is not considered to be installed generation capacity.

SECTION 1.12. Amends Section 39.155, Utilities Code, by amending Subsections (a) and (b) and adding Subsection (e), as follows:

(a) Requires each person, municipally owned utility, electric cooperative, and river authority that owns generation facilities and offers electricity for sale in this state, other than the Texas Energy Insurance Program, to report to the PUC certain information.

(b) Requires that the reports required by this subsection include a section identifying existing and potential transmission and distribution constraints that could affect the availability of any reliability asset and include alternatives for meeting identified needs.

(e) Provides that the Texas Energy Insurance Program is not considered to have market power when dispatched by an order of the independent organization certified under Section 39.151 for the ERCOT power region.

SECTION 1.13. Amends Subchapter H, Chapter 39, Utilities Code, by adding Section 39.360, as follows:

Sec. 39.360. CERTIFICATION OF TEXAS ENERGY INSURANCE PROGRAM. (a) Authorizes the PUC to certify one or more entities to operate as the Texas Energy Insurance Program by owning and operating reliability assets. Provides that the PUC is authorized to certify any number of entities to operate any number of reliability assets, but is prohibited from certifying a total of more than 10 gigawatts of generating capacity for the entire Texas Energy Insurance Program.

(b) Prohibits an entity from operating as part of the Texas Energy Insurance Program unless the entity is certified by the PUC under this section.

(c) Requires the PUC to:

(1) issue at least one request for proposals from qualified applicants to serve as part of the Texas Energy Insurance Program; and

(2) if the PUC receives at least one application from a qualified applicant in response to the request described by Subdivision (1) before the expiration of the period provided by Subsection (e), select and certify at least one qualified applicant not later than the 28th day after the date the PUC issues the request.

(d) Authorizes the PUC, to ensure efficient distribution of reliability assets, to designate regions in the ERCOT power region and issue requests for proposals under Subsection (c) for specific amounts of gigawatts of generation capacity by region.

(e) Requires an applicant to submit an application under Subsection (c) not later than the 14th day after the date the PUC issues a request for proposals under that subsection.

(f) Authorizes an entity that is not authorized by Title 2 (Public Utility Regulatory Act) to operate a generation asset to apply to be certified to be part of the Texas Energy Insurance Program under this section.

(g) Requires an applicant, to be certified as part of the Texas Energy Insurance Program, to:

(1) establish financial stability by demonstrating that:

(A) the applicant or the applicant's parent company has total assets of at least \$10 billion for every gigawatt of generating capacity for which the applicant is applying to be certified;

(B) the applicant or the applicant's parent company has a credit rating that is acceptable to the PUC from a major credit rating agency;

(C) the applicant or the applicant's parent company is able to fund the investment with cash on hand or proof of access to adequate financing; and

(D) the applicant is able to close on any financing not later than the 60th day after the date of securing certification and contract execution;

(2) establish industry expertise by demonstrating that:

(A) the applicant is an electric utility or the applicant or the applicant's parent company owns or operates electric generation assets totaling at least 15,000 megawatts;

(B) the applicant or the applicant's parent company has an Occupational Safety and Health Administration incident rate in the top quartile for electric utilities; and

(C) the certified entity will be International Organization for Standardization 27001 certified;

(3) establish project quality standards by demonstrating that:

(A) the applicant is able to provide a parent performance guarantee that the independent organization certified under Section 39.151 for the ERCOT power region or the PUC is authorized to draw upon during each season, as defined by the independent organization, if a reliability asset does not perform and performance is not excused under Subsection (m), in the amount of \$400 million for every gigawatt of generating capacity for which the applicant is applying to be certified; and

(B) each reliability asset will be in operation not later than the last day of the 42nd month after certification, unless interconnection delays require a later operation date; and

(4) establish customer friendly solutions by committing:

(A) that any net revenue earned during testing or operating would be for the benefit of the ERCOT power region;

(B) not to sell any reliability asset over the life of the reliability asset while the applicant is certified as part of the Texas Energy Insurance Program; and

(C) that the siting of reliability assets will maximize the effectiveness of the new generation capacity.

(h) Requires each applicant to provide in the application a statement:

(1) of the return on equity the applicant will accept while operating as part of the Texas Energy Insurance Program;

(2) agreeing to a return on equity of not more than 10 percent and an equal debt-to-equity ratio;

(3) of the maximum actual costs described by Section 36.501 for which the applicant will request recovery; and

(4) agreeing to a revenue requirement that is the lesser of the actual costs described by Section 36.501 or \$1 billion per gigawatt of installed generation capacity in the program.

(i) Authorizes the PUC to certify an entity to be part of the Texas Energy Insurance Program if the entity submits a qualifying application that includes:

(1) proof that the requirements of Subsection (g) have been met;

(2) a description of the location or proposed location of each reliability asset;

(3) a commitment to construct, own, operate, and maintain reliability assets for a time period not less than the useful life of the assets;

(4) a commitment that the reliability assets will include at each site capacity to provide generation at full load for not less than 168 continuous hours;

(5) an affidavit affirming that the reliability assets will be available to dispatch in a manner that provides the independent organization certified under Section 39.151 for the ERCOT power region, in times of emergency, natural disaster, and testing, with access to power for up to seven consecutive days, after accounting for ramp up and ramp down times required by the independent organization;

(6) proof of the posting of a parent performance guarantee that the independent organization certified under Section 39.151 for the ERCOT power region or the PUC is authorized to draw upon during each season, as defined by the independent organization, if a reliability asset does not perform and performance is not excused under Subsection (m), in the amount of \$400 million for every gigawatt of generating capacity for which the applicant is applying to be certified; and

(7) proof of a credit rating that is acceptable to the PUC from a major credit rating agency.

(j) Requires the PUC to provide a process to amend a certificate to account for the addition of any new reliability asset.

(k) Prohibits the PUC from revoking a certificate unless after notice and an opportunity for hearing before the PUC, the PUC finds the certified entity wilfully and without excuse failed to dispatch sufficient reliability assets after the determination of a natural disaster or other emergency by the independent organization certified under Section 39.151 for the ERCOT power region or the PUC.

(l) Requires the Texas Energy Insurance Program to comply with the reliability standards adopted by the independent organization certified under Section 39.151 for the ERCOT power region to ensure the reliability of the ERCOT region.

(m) Prohibits the PUC or the independent organization certified under Section 39.151 for the ERCOT power region from drawing upon a parent performance guarantee provided by a certified entity or imposing a fine or penalty on a certified entity for failure to provide service if the inability to provide service is wholly or partly the result of:

(1) the actions of an electric utility or transmission service provider;

(2) the actions of the independent organization certified under Section 39.151 for the ERCOT power region, including scheduled routine maintenance; or

(3) equipment failure beyond the control of the certified entity, when the equipment failure could not reasonably have been predicted or remedied.

(n) Provides that Subsection (m)(3) does not apply to equipment failure that results from a failure of a certified entity to exercise good utility practices based on best-in-class industry-based methods or that is related to the acquisition, design, or construction of a reliability asset.

(o) Prohibits the PUC from requiring a bond, letter of credit, or other security from a certified entity except for a parent performance guarantee described by this section and from requiring the expansion of a parent performance guarantee. Prohibits a parent performance guarantee, if drawn upon, from being required to be replenished or expanded.

(p) Provides that a certification issued under this section is nontransferable. Requires the PUC, if a certified entity transfers ownership of a reliability asset to another entity, to decertify the entity to operate that asset as part of the Texas Energy Insurance Program.

SECTION 1.14. Requires the PUC, not later than March 1, 2024, to issue a request for proposals required by Section 39.360(c), Utilities Code, as added by this article.

SECTION 1.15. Requires the PUC to adopt any rules necessary to implement this article not later than February 1, 2024.

SECTION 1.16. Provides that this article, to the extent of any conflict, prevails over another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 1.17. Effective date, this article: September 1, 2023.

ARTICLE 2. GENERATING FACILITY FUNDING

SECTION 2.01. Amends Subtitle B, Title 2, Utilities Code, by adding Chapter 34, as follows:

CHAPTER 34. GENERATING FACILITY FUNDING

Sec. 34.0101. DEFINITIONS. Defines "advisory committee," "fund," and "trust company."

Sec. 34.0102. FUND. (a) Provides that the Texas energy insurance fund (fund) is a special fund in the state treasury outside the general revenue fund to be administered and used by the PUC for the purposes authorized by this chapter. Authorizes the PUC to establish separate accounts in the fund.

(b) Provides that the fund and the fund's accounts are kept and held by the Texas Treasury Safekeeping Trust Company (trust company) for and in the name of the

PUC. Provides that the PUC has legal title to money and investments in the fund until money is disbursed from the fund as provided by this chapter and PUC rules.

(c) Provides that money deposited to the credit of the fund is authorized to be used only as provided by this chapter.

(d) Provides that the fund consists of:

(1) money transferred or deposited to the credit of the fund by or as authorized by law, including money from any source transferred or deposited to the credit of the fund at the PUC's discretion;

(2) revenue, including the proceeds of any fee, assessment, or tax imposed by this state, that general law dedicates for deposit to the credit of the fund; and

(3) investment earnings and interest earned on money in the fund.

Sec. 34.0103. LOANS FOR MAINTENANCE AND MODERNIZATION. (a) Authorizes the PUC to use money in the fund without further appropriation to provide loans to finance maintenance or modernization of dispatchable electric generating facilities operating in the ERCOT power region. Provides that a generating facility, for the purposes of this section, is considered to be dispatchable if the facility's output can be controlled primarily by forces under human control.

(b) Requires the PUC, each year, to produce a list of dispatchable electric generating facilities operating in the ERCOT power region and estimate the potential costs to maintain and modernize the facilities during the following five years. Requires the PUC to give priority to loan applications under this section that the PUC determines will provide the highest ratio of dispatchable megawatts maintained to project costs.

(c) Requires the PUC to evaluate an application for a loan under this section based on the applicant's efforts and achievements in conserving resources, quality of services, efficiency of operations, and quality of management.

(d) Authorizes the PUC to provide a loan under this section only for maintenance or modernization of a facility that is capable of operating for at least five years after the date the loan is received.

(e) Prohibits the proceeds of a loan received under this section from being used for weatherization, debt payments, or expenses not related to maintaining or modernizing the electric generating facility.

(f) Prohibits an electric utility from receiving a loan under this section.

(g) Authorizes the PUC to require immediate repayment of a loan issued under this section if the recipient of the loan stops operating the facility for which the loan was received before the fifth anniversary of the date on which the loan was disbursed.

(h) Authorizes the PUC to provide a loan under this chapter that bears interest at a rate or rates determined by the PUC, including a rate or rates below prevailing market rates.

(i) Provides that information submitted to the PUC in an application for a loan under this chapter is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 34.0104. SOURCES OF MONEY FOR LOANS FOR TEXAS ENERGY INSURANCE PROGRAM RELIABILITY ASSETS. Authorizes the PUC to use any money appropriated to the PUC for the purpose of providing a loan to an entity certified under Section 39.360 to be used to reduce debt associated with constructing or operating a reliability asset. Authorizes the PUC use without legislative appropriation money from the fund for that purpose.

Sec. 34.0105. MAXIMUM LOAN AMOUNT. Prohibits the amount of the loan awarded, if the PUC has more than four pending applications for loans to be made from the fund on the date the PUC awards a loan, from exceeding 25 percent of the fund balance on that date.

Sec. 34.0106. MANAGEMENT AND INVESTMENT OF FUND. (a) Requires the trust company to hold and invest the fund, and any accounts established in the fund, for and in the name of the PUC, taking into account the purposes for which money in the fund is authorized to be used. Authorizes the fund to be invested with the state treasury pool.

(b) Provides that the overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund.

(c) Provides that the trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund. Authorizes the trust company, in managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(d) Authorizes the trust company to charge fees to cover its costs incurred in managing and investing the fund. Requires that the fees be consistent with the fees the trust company charges other state and local governmental entities for which it provides investment management services. Authorizes the trust company to recover fees it charges under this subsection only from the earnings of the fund.

(e) Requires the trust company to provide annually a written report to the PUC and to the Texas Energy Insurance Fund Advisory Committee (advisory committee) with respect to the investment of the fund. Requires the trust company to contract with a certified public accountant to conduct an independent audit of the fund annually and to present the results of each annual audit to the PUC and to the advisory committee. Provides that this subsection does not affect the state auditor's authority to conduct an audit of the fund under Chapter 321 (State Auditor), Government Code.

(f) Requires the trust company to adopt a written investment policy that is appropriate for the fund. Requires the trust company to present the investment policy to the investment advisory board established under Section 404.028 (Investment Advisory Board), Government Code. Requires the investment advisory board to submit to the trust company recommendations regarding the policy.

(g) Requires the PUC to annually provide to the trust company a forecast of the cash flows into and out of the fund. Requires the PUC to provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the objective specified by Subsection (b).

(h) Requires the trust company to disburse money from the fund as directed by the PUC.

(i) Provides that an investment-related contract entered into under this section is not subject to Chapter 2260 (Resolution of Certain Contract Claims Against the State), Government Code.

Sec. 34.0107. TEXAS ENERGY INSURANCE FUND ADVISORY COMMITTEE. (a) Provides that the advisory committee is composed of the following seven members:

(1) the Comptroller of Public Accounts of the State of Texas (comptroller) or a person designated by the comptroller;

(2) three members of the senate appointed by the lieutenant governor, including a member of the committee of the senate having primary jurisdiction over matters relating to the generation of electricity and a member of the committee of the senate having primary jurisdiction over finance; and

(3) three members of the house of representatives appointed by the speaker of the house of representatives, including a member of the committee of the house of representatives having primary jurisdiction over the generation of electricity and a member of the committee of the house of representatives having primary jurisdiction over finance.

(b) Requires the PUC to provide staff support for the advisory committee.

(c) Provides that an appointed member of the advisory committee serves at the will of the person who appointed the member.

(d) Requires the lieutenant governor to appoint a co-presiding officer of the advisory committee from among the members appointed by the lieutenant governor. Requires the speaker of the house of representatives to appoint a co-presiding officer of the advisory committee from among the members appointed by the speaker.

(e) Authorizes the advisory committee to hold public hearings, formal meetings, and work sessions. Authorizes either co-presiding officer of the advisory committee to call a public hearing, formal meeting, or work session of the advisory committee at any time. Prohibits the advisory committee from taking formal action at a public hearing, formal meeting, or work session unless a quorum of the committee is present.

(f) Provides that a member of the advisory committee, except as otherwise provided by this subsection, is not entitled to receive compensation for service on the committee or reimbursement for expenses incurred in the performance of official duties as a member of the committee. Provides that service on the advisory committee by a member of the senate or house of representatives is considered legislative service for which the member is entitled to reimbursement and other benefits in the same manner and to the same extent as for other legislative service.

(g) Provides that the advisory committee:

(1) is authorized to provide comments and recommendations to the PUC for the PUC to use in adopting rules regarding the use of the fund or on any other matter; and

(2) is required to review the overall operation, function, and structure of the fund at least semiannually.

(h) Authorizes the advisory committee to adopt rules, procedures, and policies as needed to administer this section and implement its responsibilities.

(i) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the advisory committee.

(j) Provides that the advisory committee is subject to Chapter 325 (Sunset Law), Government Code. Provides that the advisory committee, unless continued in existence as provided by that chapter, is abolished September 1, 2035.

Sec. 34.0108. RULES. (a) Authorizes the PUC by rule to establish procedures for the application for and award of a loan under this chapter and the administration of the fund.

(b) Requires the PUC to give full consideration to comments and recommendations of the advisory committee before the PUC adopts rules under this chapter.

Sec. 34.0109. TEXAS ENERGY INSURANCE PROGRAM CUSTOMER PAYMENTS. Authorizes the PUC to use any money appropriated to the PUC for the purpose of providing payments to the independent organization certified under Section 39.151 for the ERCOT power region on behalf of customers of retail electric providers, municipally owned utilities, and electric cooperatives to offset amounts owed to certified entities under Section 36.501. Authorizes the PUC to use without legislative appropriation money from the fund for that purpose.

SECTION 2.02. Provides that this article is contingent upon approval by the voters of the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, providing for the creation of the Texas energy insurance fund and the authorization of other funding mechanisms to support the construction and operation of electric generating facilities.