

RESOLUTION ANALYSIS

C.S.S.J.R. 93
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Winter Storm Uri revealed failures in the state's electricity market, specifically the lack of reliability. While reforms from S.B. 3 from the 87th Texas Legislature, Regular Session, addressed many critical system issues, there remains a need for increased reliability related specifically to dispatchable generation. C.S.S.J.R. 93 seeks to target money at dispatchable generation facilities by proposing a constitutional amendment to establish the Texas Energy Fund for use in providing loans and grants to finance or incentivize the construction and operation of electric facilities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this resolution 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 this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.J.R. 93 proposes an amendment to the Texas Constitution to create the Texas Energy Fund as a special fund in the state treasury outside the general revenue fund. As provided by general law, money in the fund may be administered and used, without further appropriation, only by the Public Utility Commission of Texas (PUC) to provide loans and grants to any entity to finance or incentivize the construction, maintenance, modernization, and operation of electric generating facilities, including associated infrastructure, necessary to ensure the reliability or adequacy of an electric power grid in Texas. The resolution requires the PUC to allocate money from the fund for loans and grants to eligible projects for electric generating facilities that serve as backup power sources and requires the PUC to allocate that money to eligible projects in each region of Texas that is part of an electric power grid in proportion to that region's load share.

C.S.S.J.R. 93 authorizes the entity administering the Texas Energy Fund to establish separate accounts in the fund as necessary or convenient for the fund's administration and establishes that the fund consists of the following:

- money credited, appropriated, or transferred to the fund by or as authorized by the legislature;
- revenue that the legislature dedicates for deposit to the credit of the fund;
- the returns received from the investment of the money in the fund; and
- gifts, grants, and donations contributed to the credit of the fund.

The resolution requires that the reasonable expenses of managing the fund's assets be paid from the fund.

C.S.S.J.R. 93 authorizes the legislature to appropriate general revenue for the purpose of depositing money to the credit of the Texas Energy Fund to be used for the purposes of the fund and authorizes the legislature by a provision of a general appropriations act to provide for the transfer to the general revenue fund of money that is subject to the resolution's provisions.

C.S.S.J.R. 93 establishes that, for purposes of the constitutional limit on the rate of growth of appropriations, money in the Texas Energy Fund is considered dedicated by the constitution and an appropriation of state tax revenues for the purpose of depositing money to the credit of the fund is to be treated as if it were an appropriation of constitutionally-dedicated revenues.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 7, 2023.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.J.R. 93 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the resolution.

The substitute revises the provision in the engrossed establishing that the fund may be used only by the PUC to provide loans and grants to any entity to finance or incentivize the construction, maintenance, and modernization of electric generating facilities by doing the following:

- providing also for the operation of those facilities to be financed or incentivized through the loans and grants;
- specifying that grants and loans may be used for infrastructure associated with an electric generating facility; and
- limiting the electric generating facilities that may receive a grant or loan to those that are necessary to ensure the reliability or adequacy of an electric power grid in Texas.

The substitute includes a provision absent from the engrossed requiring the PUC to allocate money from the Texas Energy Fund for loans and grants to eligible projects for electric generating facilities that serve as backup power sources and requiring the PUC to allocate that money to eligible projects in each region of Texas that is part of an electric power grid in proportion to that region's load share.

The substitute omits the provision from the engrossed establishing that, regardless of whether the legislature directs that the money be deposited to the credit of the fund, the legislature may appropriate general revenue to be expended for any purpose related to construction, maintenance, or modernization of electric generating facilities to ensure the reliability or adequacy of an electric power grid in Texas.

The substitute revises the proposed ballot language as set out in the engrossed.