

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1500 by Holland (Relating to the continuation and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel, and the functions of the independent organization certified for the ERCOT power region; increasing an administrative penalty.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1500, As Passed 2nd House : a negative impact of (\$2,224,130) through the biennium ending August 31, 2025.

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>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$987,065)
2025	(\$1,237,065)
2026	(\$1,237,065)
2027	(\$737,065)
2028	(\$737,065)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable (Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Renewable Energy Generation Facility Fund	Probable (Cost) from Renewable Energy Generation Facility Fund	Change in Number of State Employees from FY 2023
2024	(\$987,065)	\$986,951	(\$986,951)	15.0
2025	(\$1,237,065)	\$986,951	(\$986,951)	15.0
2026	(\$1,237,065)	\$986,951	(\$986,951)	15.0
2027	(\$737,065)	\$986,951	(\$986,951)	15.0
2028	(\$737,065)	\$986,951	(\$986,951)	15.0

Fiscal Analysis

The bill would amend the Utilities Code to continue the functions of the Public Utility Commission of Texas, the Office of Public Utility Counsel, and the functions of the independent organization certified for the ERCOT power region until September 1, 2029.

The bill would allow the Public Utility Commission (PUC) to increase the maximum daily administrative penalty the agency may impose for a violation of a voluntary mitigation plan and requires PUC to review such plans at least once every two years. Voluntary mitigation plan violation penalties apply only after the effective date of the bill.

The bill would expand and clarify the Independent Market Monitor's (IMM) reporting to PUC and require PUC to report to the Legislature annually the number of instances the IMM reported potential market manipulation and other information as prescribed by the Legislature. PUC would be restricted from allowing the IMM from appearing, speaking, or providing analysis to the Legislature. ERCOT would also be prohibited from modifying the IMM's contract without majority approval by PUC

The bill would allow PUC to establish guardrails on the performance credit mechanism (PCM), including an annual cost cap of \$1 billion and requires PUC to direct ERCOT to procure dispatchable reliability reserve services (DRRS). A generator receiving credits through the PCM program is prohibited from decommissioning or removing from service any dispatchable electric generating facility while participating in PCM, unless it was after September 1, 2028, required by federal law, or alleviated significant financial hardship for the generator. PUC would adopt rules to implement this provision. PUC will define how ERCOT must calculate and allocate the cost of providing ancillary/reliability services, including requiring ERCOT to allocate on a semiannual basis.

The bill would establish the Grid Reliability Legislative Oversight Committee to oversee PUC's implementation of recent electric market legislation and will require retail electric providers (REPs) to annually report retail sales to PUC.

The bill would establish reliability requirements for generation facilities in the ERCOT power region and directs PUC to require ERCOT to enforce the requirements. PUC is required to annually report to the legislature estimated costs incurred by load serving entities (LSEs) associated with firming dispatchable and non-dispatchable electric generation facilities, other costs calculated by ERCOT, implementation status, and recommendations.

The bill would incorporate an instructional provision that requires PUC to require ERCOT to implement DRRS by December 1, 2024 and requires PUC to implement generator reliability requirements by December 1, 2027. PUC and ERCOT will be required to study the consumer costs associated with Senate Bill 3 from the 87th Regular Legislative Session and report to the Legislature by December 1, 2024, and study costs on alternatives to a single market clearing price and report to the Legislature by December 1, 2025.

The bill would require that when PUC gives a directive to ERCOT through a memorandum or a written order, it must be adopted by majority vote. The agency is also to engage in a contested case or rulemaking process to direct ERCOT to take an official action that will create a new cost or fee, increase an existing cost or fee, or impose significant operational obligations on an entity.

The bill would require PUC by rule to require a provider of electric generation service to provide ERCOT notice of each material unplanned service interruption within a reasonable time after the interruption of the service has impacted generation availability.

The bill would requires PUC under Section 35.004 to establish a reasonable allowance for costs incurred by transmission-owning utilities to interconnect generation resources to the ERCOT transmission grid. The allowance should take historical interconnection costs, potential to reduce consumer costs, and any other factors PUC considers reasonable into account. Any costs in excess of the allowance must be directly assigned to and collected from the generation resource. PUC must review and can adjust for inflation or supply chain issues every 5 years. PUC's first review can happen 5 years after adoption of the rules required to implement section 35.004, which must happen within 180 days of effective date of this act. Section 35.004 is applicable to

generators that execute a standard interconnection agreement with a transmission-owning utility after 12/31/2025.

The bill would require PUC to direct transmission and distribution utilities (TDUs) to perform a circuit segmentation study and submit a report to PUC by 2024. PUC is directed to review each study by 2025 and, if PUC determines that implementation of circuit segmentation would facilitate better outage management in the ERCOT region, then investments towards segmentation by a utility would be presumed to be just, reasonable, and appropriate for rate-based cost recovery.

This bill would amend Chapter 35 of the Utilities Code to add Subchapter F regarding permits for renewable energy generation facilities.

The bill would require operators of a wind or solar power facility with a capacity of 10 megawatts or more to obtain a permit from the PUC. In addition to a permit, the bill would require an operator to apply for and obtain PUC approval prior to constructing a new wind or solar power facility. The bill would impose an annual permit fee on each permit holder. The amount of the fee would be determined by the PUC.

The bill would create the Renewable Energy Generation Facility Fund as a dedicated account in the General Revenue fund. The fund would consist of an environmental impact fee established by the bill, gifts, grants, donations, and legislative appropriations.

The bill is effective September 1, 2023.

Methodology

Based on the analysis of the PUC, this estimate assumes that the agency would require \$250,000 in fiscal year 2024, and \$500,000 in fiscal year 2025 and 2026 from General Revenue for contractor costs related to the reports and studies as required by the bill.

This estimate assumes that the PUC would require 6.0 additional full time equivalent (FTE) positions to handle increased rulemakings and contested cases associated with issuing directives to ERCOT.

Two Attorney III (\$90,000 per year with estimated benefits of \$27,297) would be needed to assist in rulemaking and contested cases. Two Economist III (\$90,000 per year with estimated benefits of \$27,297) would be needed to assist with rulemaking. Two Administrative Law Judge I (\$95,000 per year with estimated benefits of \$28,814) to assist with contested cases. The annual cost to PUC for these costs would be \$737,065 per fiscal year in General Revenue.

Under the bill's provisions, the Renewable Energy Generation Facility Fund would be established as a General Revenue-Dedicated account with eligible uses to include covering expenses necessary to implement the bill's provisions and to which would be deposited revenue generated through a new permit fee, which the bill establishes and requires to be administered by the PUC. The bill would require the agency to set a fee schedule to determine the amount to be charged to each permit holder. For purposes of this analysis, this estimate assumes that the PUC would establish a fee schedule for this new fee at an amount sufficient to cover the agency's annual costs with revenue deposited to the credit of the new General Revenue-Dedicated account Renewable Energy Generation Facility Fund.

This estimate assumes that the PUC would require 9.0 additional FTEs positions to implement the permitting of renewable energy generation facilities. An additional five Attorney III positions (\$90,000 per year with estimated benefits of \$27,297) would be needed for rulemaking which is anticipated to continue over a 5-year period. An additional Legal Assistant III position (\$60,000 per year with estimated benefit cost of \$18,198) would be needed to support the attorneys in rule making. An additional three Engineer III positions (\$75,000 per year with estimated benefits of \$22,748) would be needed to conduct analysis. The annual cost to PUC for these costs would be \$986,951 per fiscal year in the new established General Revenue-Dedicated account Renewable Energy Generation Facility Fund.

Note: This legislation would create or recreate a dedicated account in the General Revenue Fund, create or recreate a fund either in, with, or outside of the Treasury, or dedicate or rededicate a revenue source. The Legislature consolidated funds into the General Revenue Fund as of August 31, 1993 and eliminated all

applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has enacted a funds consolidation bill. The dedication included in this bill, unless created by a constitutional amendment, would be subject to funds consolidation review by the current Legislature.

Technology

PUC estimate anticipates a technology impact of \$18,000 in start-up equipment for new FTEs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel, 575 Texas Division of Emergency Management, 802 Parks and Wildlife Department, 808 Historical Commission

LBB Staff: JMc, SZ, GDZ, JBel, SMAT