|  |
| --- |
| BILL ANALYSIS |

|  |
| --- |
| C.S.H.B. 3356 |
| By: Patterson |
| State Affairs |
| Committee Report (Substituted) |

|  |
| --- |
| **BACKGROUND AND PURPOSE**  Following Winter Storm Uri, the 88th Legislature made changes to the electric industry to secure the state's power sector. One of the bills enacted was H.B. 1500, which provided for the continuation of Public Utility Commission of Texas (PUC) and certain additional measures, including requiring certain ERCOT generators, other than battery storage, to meet specific performance standards on an annual basis or pay a financial penalty. Generators will need to be able to demonstrate their ability to produce power when called upon by ERCOT. The PUC is required to set the applicable performance standard for each resource type and establish the scale of financial penalties for noncompliance.  Currently, these performance standards apply to an electric generation facility only if it is subject to a standard generator interconnection agreement that is signed on or after January 1, 2027, and meets certain other criteria. C.S.H.B. 3356 seeks to broaden the applicability to include any electric generation facility that is subject to a standard generator interconnection agreement, regardless of the date signed, and meets the other existing criteria. |
| **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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution. |
| **ANALYSIS**  C.S.H.B. 3356 amends the Utilities Code to revise statutory provisions requiring an owner or operator of certain electric generation facilities in the ERCOT power region, excluding a battery energy storage resource, to annually demonstrate to the Public Utility Commission of Texas (PUC) the ability of the owner or operator's portfolio to operate or be available to operate when called on for dispatch at or above the seasonal average generation capability during the times of highest reliability risk due to low operation reserves. Specifically, the bill does the following:   * expands the applicability of those provisions by replacing the specification that an applicable facility is one for which a standard generator interconnection agreement is signed on or after January 1, 2027, with the specification that an applicable facility is subject to a standard generation interconnection agreement; and * with respect to the imposition of financial penalties for failing to comply with the specified generation reliability performance requirements:   + removes a provision prohibiting ERCOT from imposing such penalties during hours outside a baseline established by the PUC that includes morning and evening ramping periods;   + prohibits ERCOT from imposing such penalties on resources that demonstrate the ability to operate when called upon for dispatch for 24 continuous hours at or above the seasonal average generation capability through the resource's own generation capability or through a contract with an on-site or off-site resource, including a battery energy storage resource; and   + prohibits ERCOT from imposing such penalties on resources with dual but separate grid interconnections that provide dispatchable generation to the ERCOT power region.   C.S.H.B. 3356 requires the PUC to consider the use of a settlement price cap, a fixed reliability fee, and other methods of imposing the financial penalties for failing to comply with the generation reliability performance requirements. The bill requires the PUC and ERCOT to do the following:   * consider rebating collected penalties directly to consumers or redirecting a portion of the collected penalties toward reliability incentives; and * prioritize rebates of penalties or redirection of penalties in a manner the PUC determines will provide the maximum financial benefit to consumers while still ensuring that the reliability needs of the ERCOT power region are met.   The bill authorizes the PUC to allow the financial penalties and the financial incentives for exceeding the performance requirements to be adopted in a phased manner over multiple years to mitigate market disruptions that the PUC determines would result in net increased costs to consumers. |
| **EFFECTIVE DATE**  September 1, 2025. |
| **COMPARISON OF INTRODUCED AND SUBSTITUTE**  While C.S.H.B. 3356 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 includes provisions absent from the introduced that do the following with respect to the imposition of financial penalties for failing to comply with the generation reliability performance requirements:   * remove the prohibition against ERCOT imposing such penalties during hours outside a baseline established by the PUC that includes morning and evening ramping periods; * prohibit ERCOT from imposing such penalties on resources that demonstrate the ability to operate when called upon for dispatch for 24 continuous hours at or above the seasonal average generation capability through the resource's own generation capability or through a contract with an on-site or off-site resource; and * prohibit ERCOT from imposing such penalties on resources with dual but separate grid interconnections that provide dispatchable generation to the ERCOT power region.   The substitute omits provisions from the introduced that did the following with respect to the initial implementation of the generation reliability performance requirements:   * repealed a requirement for the PUC to implement provisions relating to those requirements not later than December 1, 2027; and * changed the deadline by which an owner or operator of an applicable facility is required to make the first demonstration of the ability of their portfolio to meet the performance requirements from not later than January 1, 2028, to not later than January 1, 2027.   The substitute includes the following provisions absent from the introduced:   * a requirement for the PUC to consider the use of a settlement price cap, a fixed reliability fee, and other methods of imposing the financial penalties; * a requirement for the PUC and ERCOT to consider rebating the collected penalties directly to consumers or redirecting a portion of the collected penalties toward reliability incentives and to prioritize such rebates or redirection in a certain manner; and * an authorization for the PUC to allow the applicable financial penalties and incentives to be adopted in a phased manner over multiple years to mitigate market disruptions. |
|  |
|  |