

BILL ANALYSIS

C.S.H.B. 2868
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that, when setting rates for electric utilities operating solely within the ERCOT region, regulatory authorities evaluate a utility's debt and equity structure to determine a reasonable return on invested capital. Additionally, the bill author has informed the committee that the existing practice relies heavily on assumptions about capital structure that were developed over 20 years ago, before the unprecedented infrastructure investments now needed to support grid reliability, and that these outdated assumptions do not fully account for modern financing realities or the competitive environment utilities face in securing capital. C.S.H.B. 2868 seeks to update the process used by regulatory authorities when evaluating the capital structure of electric utilities operating solely within ERCOT during rate proceedings, modernize regulatory assumptions to reflect current financial realities, and preserve oversight authority to ensure rates remain fair and reasonable.

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. 2868 amends the Utilities Code to require the Public Utility Commission (PUC) or an applicable governing body of a municipality, in considering an electric utility's capitalization ratio when establishing the utility's rates, to presume the proportion of debt and equity proposed by the utility is reasonable if calculated as follows:

- using the utility's actual proportion of long-term debt and equity capitalization as recorded in the utility's books and records for the most recent available financial quarter before the initiation of the applicable rate proceeding; and
- in a manner consistent with the methodology included in earnings monitoring reports.

If the applicable regulatory authority finds that the capitalization ratio is unreasonable, the regulatory authority is required to use an equity capitalization ratio equal to the national average for electric utility operating companies. The bill applies only to an electric utility that operates solely within ERCOT.

C.S.H.B. 2868 applies only to a proceeding for the establishment of rates for which the applicable regulatory authority has not issued a final order or decision before the bill's effective date. A proceeding for which the regulatory authority has issued a final order or decision before the bill's effective date is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2868 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.

Whereas the introduced required the PUC or an applicable governing body of a municipality, in considering an electric utility's capitalization ratio when establishing the utility's rates, to presume the return on the utility's invested capital is reasonable if calculated as specified under the bill's provisions, the substitute requires the PUC or that body, in considering such a ratio, to presume the proportion of debt and equity proposed by the utility is reasonable if calculated as specified under the bill's provisions. With respect to that calculation, the introduced established that the return is calculated using the utility's actual proportion of long-term debt and equity capitalization as reported on the utility's most recent quarterly financial statement issued before the initiation of the applicable rate proceeding, whereas the substitute establishes that the proportion is calculated using that debt and capitalization as recorded in the utility's books and records for the most recent available financial quarter before that initiation.

Whereas the introduced required a regulatory authority, if that authority finds that the capitalization ratio calculated under the bill's provisions is unreasonable, to calculate the reasonable return on the utility's invested capital using an equity capitalization ratio equal to the national average for electric utility operating companies, the substitute requires that authority, if the condition applies, to use an equity capitalization ratio equal to that average.