

**BILL ANALYSIS**

Senate Research Center

S.B. 75  
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Business & Commerce  
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Enrolled

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 75 would create the Texas Grid Security Commission under the direction of the Texas Division of Emergency Management (TDEM) to evaluate all hazards to the ERCOT electric grid and vulnerabilities of essential service systems for municipalities.

Despite the many changes made to Texas policy over the last 10 years, the electric grid remains vulnerable to a wide range of both natural and man-made existential threats, including cyberattacks, malware, electromagnetic pulses (EMP), and geomagnetic disturbances (GMD) that would, at best, disrupt the grid, and at worst, cause the entire grid to go down. Texas-sized growth continues to overwhelm all sectors of our industries, causing extreme stress on electric supply and demand. Electric outages threaten not only individual safety but also elderly, vulnerable, and underprivileged communities who bear disproportionate environmental, health, and financial burdens when facilities are taken offline, namely chemical plants and refineries, and can become environmental disaster areas due to loss of electricity. Ensuring public confidence in its resilience is vital for economic prosperity and essential services, as a robust grid will attract businesses and bolster the state's economy.

It is time Texas takes a more active role in protecting our grid through the establishment of the Texas Grid Security Commission (TGSC). Through the work of the TGSC, a statewide plan for all hazards resilience to protect the grid would provide substantial short-term and long-term economic benefits that would far exceed even the most optimistic estimates of the conventional economic incentives provided by tax abatements to attract businesses to the state.

Under current law, there are several state agencies that plan and prepare for state emergencies, but until Governor Abbott issued Executive Order 49 (GA EO-49), there had not been one agency tasked specifically to evaluate vulnerabilities to essential services and critical infrastructure in the state, and the resilience of municipalities in six essential areas.

S.B. 75 creates a new Chapter 44, "Grid Resilience," in the Texas Utilities Code.

(Original Author's/Sponsor's Statement of Intent)

S.B. 75 amends current law relating to the resilience of the electric grid and certain municipalities.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Provides that the legislature finds that:

(1) electric grid outages threaten the lives of the citizens of this state and pose a disproportionately large risk to:

(A) the elderly, vulnerable, and underprivileged within this state; and

- (B) communities facing disproportionate environmental health burdens and population vulnerabilities relating to facilities such as chemical plants and refineries that can become environmental disaster areas when taken off-line due to loss of electricity;
- (2) the 16 critical infrastructure sectors identified in President Barack Obama's Presidential Policy Directive "Critical Infrastructure Security and Resilience" (PPD-21) (chemical, commercial facilities, communications, critical manufacturing, dams, defense industrial base, emergency services, energy, financial services, food and agriculture, government facilities, healthcare and public health, information technology, nuclear reactors, materials, and waste, transportation systems, water and wastewater systems) depend on the electric grid in this state and make the grid's protection vital to the economy of this nation and homeland security;
- (3) the power outage that occurred in this state in February 2021 caused:
- (A) death and suffering in this state;
  - (B) economic loss to this state's economy;
  - (C) impacts to all critical infrastructures in this state;
  - (D) the dispatch of generation units that likely exceeded limits established by the Environmental Protection Agency for sulfur dioxide, nitrogen oxide, mercury, and carbon monoxide emissions and wastewater release limits;
  - (E) radically increased pricing of electricity and made electric power bills unaffordable to many customers across this state; and
  - (F) exacerbation of COVID-19 pandemic risk by forcing many of the state's citizens to consolidate at warming centers and in other small spaces where warmth for survival superseded social distancing protocols;
- (4) a previous large-scale power outage occurred in this state in February 2011 during which 4.4 million customers were affected;
- (5) this state is uniquely positioned to prevent power outages because this state is a net exporter of energy and is the only state with an electric grid almost exclusively within its territorial boundaries;
- (6) the 2011 and 2021 power outages call into question whether too much risk has been accepted regarding weatherization of electric generation infrastructure, whether this state lacks the internal distribution structure and control systems to manage rolling outages, and whether sufficient resources have been allocated toward overall grid resilience;
- (7) public confidence in the resilience of the electric grid in this state is essential to ensuring economic prosperity, domestic tranquility, continuity of government, and life-sustaining systems;
- (8) a resilient electric grid that offers businesses in this state continuity of operations in the event of a natural or man-made disaster will be an unrivaled attraction for businesses to expand or move their operations to this state;
- (9) a resilient electric grid that can operate in the event of a natural or man-made disaster will protect important facets of this state, including its military installations and environment;
- (10) current market incentives and regulations are not sufficient for electric utilities to prioritize grid security and resilience and protect the grid against hazards;

(11) protection of the electric grid in this state against hazards would assure businesses and the citizens of this state that the "lights will be back on first in Texas" in the event of a nationwide catastrophe affecting electric infrastructure, sparing this state from catastrophic societal and environmental consequences; and

(12) when this state begins implementation of the plan for all hazards resilience described by Section 44.007, Utilities Code, as added by this Act, to protect the electric grid in this state, short-term and long-term economic benefits will far exceed even the most optimistic estimates of the conventional economic incentives provided by tax abatements to attract businesses to this state.

SECTION 2. Amends Section 38.077, Utilities Code, as follows:

Sec. 38.077. New heading: RELIABILITY EXERCISES. (a) Defines "critical facility."

(b) Creates this subsection from existing text. Requires the Public Utility Commission of Texas (PUC) and the independent organization certified for the Electric Reliability Council of Texas (ERCOT) power region under Section 39.151 (Essential Organizations) to conduct simulated or tabletop load shedding exercises with providers of electric generation service and transmission and distribution service in the ERCOT power region. Requires the PUC to ensure that each year at least one simulated or tabletop load shedding exercise is conducted during a summer month and one simulated or tabletop load shedding exercise is conducted during a winter month. Makes a nonsubstantive change.

(c) Requires the PUC and the independent organization certified for the ERCOT power region under Section 39.151 to conduct simulated or tabletop exercises with providers of electric generation service and transmission and distribution service in the ERCOT power region to mitigate and prepare for a threat of an attack or an actual physical attack on a critical facility. Provides that the exercises required by this subsection are in addition to the exercises required by Subsection (b) and any requirements of the North American Electric Reliability Corporation Critical Infrastructure Protection plan standards. Requires the PUC and the independent organization to conduct the exercises under this subsection at least once every two years.

(d) Requires that a simulated or tabletop exercise conducted under Subsection (c) identify the roles and responsibilities of the following in the event of a threat of an attack or an actual physical attack on a critical facility: transmission and distribution service providers, providers of electric generation service, law enforcement, the independent organization certified for the ERCOT power region under Section 39.151, and the PUC.

(e) Provides that a transmission and distribution service provider is not required to disclose the specific location of the provider's critical substations to the PUC or the independent organization certified for the ERCOT power region under Section 39.151 for the purposes of a simulated or tabletop exercise conducted under Subsection (c).

(f) Requires each provider of electric generation service and of transmission and distribution service that participates in a simulated or tabletop exercise conducted under Subsection (c) to provide to the independent organization certified for the ERCOT power region under Section 39.151 a written attestation that the provider has coordinated with law enforcement when identifying roles and responsibilities under Subsection (d).

SECTION 3. Amends Subtitle B, Title 2, Utilities Code, by adding Chapter 44, as follows:

CHAPTER 44. GRID RESILIENCE

Sec. 44.001. DEFINITIONS. Defines "all hazards," "micro-grid," "public utility," and "security commission."

Sec. 44.002. TEXAS GRID SECURITY COMMISSION. (a) Provides that the Texas Grid Security Commission (security commission) is composed of the following members:

- (1) a representative of the Texas Division of Emergency Management (TDEM) appointed by the chief of that division;
- (2) a representative of the PUC appointed by the PUC;
- (3) a representative of the Railroad Commission of Texas (RRC) appointed by RRC;
- (4) a representative of the independent organization certified under Section 39.151 for the ERCOT power region appointed by the chief executive officer of that organization;
- (5) a representative of power generation companies appointed by the chief of TDEM; and
- (6) a representative of transmission and distribution utilities, electric cooperatives, municipally owned utilities, and river authorities appointed by the chief of TDEM; and
- (7) at the discretion of the security commission's presiding officer, any other representative of a state agency, board, commission, or organized volunteer group designated by the head of that entity.

(b) Requires TDEM to designate a member of the security commission to serve as presiding officer.

(c) Requires the security commission to convene at the call of the presiding officer.

(d) Requires the security commission to report to the chief of TDEM.

(e) Provides that a vacancy on the security commission is filled by appointment for the unexpired term in the same manner as the original appointment.

(f) Requires individuals appointed to the security commission, to the extent possible, to be residents of this state.

(g) Authorizes the chief of TDEM to invite officials or former officials of the United States Department of Defense or Department of Homeland Security with expertise on electromagnetic pulse defense to advise the security commission.

(h) Authorizes the presiding officer of the security commission or the chief of TDEM to invite to advise the security commission any person whose expertise the security commission considers necessary to carry out the purposes of this chapter, including individuals recognized as experts in the fields of law enforcement, emergency services, communications, water and sewer services, health care, financial services, agriculture, transportation, electricity markets, cybersecurity of grid control systems, electromagnetic pulse mitigation, terrestrial and solar weather, and micro-grids.

Sec. 44.003. GRID RESILIENCE INFORMATION. (a) Requires each of the following members of the security commission to apply for a secret security clearance or an interim secret security clearance to be granted by the federal government: the representative of

the independent organization certified under Section 39.151 for the ERCOT power region, the representative of TDEM, and the representative of the PUC.

(b) Provides that a member of the security commission listed under Subsection (a) who is granted an applicable security clearance under that subsection is a member of the information security working group.

(c) Requires the information security working group to determine:

(1) which information created or obtained by the security commission is confidential;

(2) which members of the security commission are authorized to access which types of information received by the security commission; and

(3) which members, other than members of the working group, should apply for a secret security clearance or interim clearance granted by the federal government.

(d) Requires that information that the information security working group determines is confidential under Subsection (c) be stored and maintained by the independent organization certified under Section 39.151 for the ERCOT power region.

(e) Requires the security commission to maintain a reasonable balance between public transparency and security for information determined to be confidential under Subsection (c).

(f) Provides that confidential information created or obtained by the security commission is not subject to disclosure under Chapter 552 (Public Information), Government Code.

(g) Provides that a meeting of the security commission that involves the discussion of confidential information is not subject to Chapter 551 (Open Meetings), Government Code.

Sec. 44.004. GRID RESILIENCE EVALUATION. (a) Requires the security commission to evaluate, using available information on past power outages in ERCOT, all hazards to the critical infrastructure of the ERCOT electric grid, including threats that can cause future outages. Requires the security commission to evaluate the resilience of municipalities in this state in certain essential areas.

(b) Authorizes the security commission to create groups to identify and address each hazard as necessary. Requires the security commission to assess each hazard both on the likelihood of occurrence of the hazard and the potential consequences of the hazard.

(c) Requires the security commission to identify methods by which this state can support an overall national deterrence policy as proposed by the United States Cyberspace Solarium Commission, including by:

(1) identifying means to ensure that measures taken to increase resilience of critical infrastructure against all hazards support critical national security functions in this state; and

(2) engaging the Texas National Guard to be trained as first responders to cybersecurity threats to the ERCOT electric grid and other critical infrastructure.

(d) Requires the security commission to evaluate nuclear generation sites in this state, the resilience of each nuclear reactor to all hazards, and the resilience to all hazards of off-site power for critical safety systems that support the reactor and spent fuel. Authorizes the security commission to communicate with the Nuclear Regulatory Commission to accomplish the evaluation.

(e) Requires the security commission to evaluate current Critical Infrastructure Protection standards established by the North American Electric Reliability Corporation and standards set by the National Institute of Standards and Technology to inform the security commission's recommended standards for protecting critical infrastructure in this state.

(f) Requires the security commission to investigate the steps that local communities and other states have taken to address grid resilience. Authorizes the security commission to request funding from TDEM to conduct site visits to these locations as required.

(g) Requires the security commission to identify universities based in this state that have expertise in cybersecurity and other matters that can contribute to the security commission's goal of mitigating all hazards to critical infrastructure in this state.

(h) Authorizes the security commission, in carrying out the security commission's duties under this section, to solicit information from certain entities.

Sec. 44.005. RESILIENCE STANDARDS. (a) Requires the security commission, based on the findings of the evaluations and investigations conducted under Section 44.004, to consider and recommend resilience standards for municipalities and critical infrastructure of the ERCOT electric grid.

(b) Provides that standards considered and recommended for energy systems of municipalities should include provisions to ensure that energy, electric power, and fuel supplies are protected and available for recovery in the event of a catastrophic power outage.

(c) Requires the security commission, not later than December 1, 2026, to prepare and deliver a report to the legislature on the security commission's recommended resilience standards, the estimated costs associated with implementing the recommended standards, the potential effects if the recommended standards are not implemented, and the anticipated timeline for implementation of the recommended standards.

Sec. 44.006. MICRO-GRIDS. Requires the security commission to recommend resilience standards for micro-grids. Requires that the standards be developed for both alternating current and direct current.

Sec. 44.007. PLAN FOR ALL HAZARDS RESILIENCE. (a) Requires the security commission, not later than December 1, 2026, to prepare and deliver to the legislature a plan for protecting critical infrastructure from all hazards, including a catastrophic loss of power in the state.

(b) Requires that the plan include certain recommendations and provisions.

(c) Authorizes the security commission to consult with the Private Sector Advisory Council in developing the plan.

Sec. 44.008. CRITICAL INFRASTRUCTURE RESILIENCE REPORT. (a) Requires the security commission, not later than January 1 of each year, to prepare and deliver a nonclassified report to the legislature, the governor, and the PUC assessing natural and man-made threats to critical infrastructure and efforts to mitigate the threats.

(b) Requires the security commission to make the report available to the public.

(c) Authorizes the security commission, in preparing the report, to hold confidential or classified briefings with federal, state, and local officials as necessary.

SECTION 4. Requires the PUC and the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region, not later than December 31, 2026, to conduct a simulated or tabletop exercise with each provider of electric generation service and of transmission and distribution service as required by Section 38.077(c), Utilities Code, as added by this Act.

SECTION 5. Effective date: upon passage or September 1, 2025.