

## **BILL ANALYSIS**

S.B. 2368  
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State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The 87th Texas Legislature enacted the Lone Star Infrastructure Protection Act (LSIPA), which prevents certain foreign-owned companies from entering into contracts or agreements that would give them access to critical infrastructure in Texas. The 88th Texas Legislature enacted further legislation prohibiting critical grid equipment from being accessed or controlled by a company described under LSIPA with ties to China, Russia, North Korea, Iran, or another country designated as a threat to critical infrastructure. S.B. 2368 seeks to further strengthen LSIPA by providing for a penalty of up to \$1 million for providing certain false or incomplete information to ERCOT, by ensuring that ERCOT has the authority to verify a business entity's compliance and mitigation strategies, by allowing the attorney general to conduct investigations into the accuracy or sufficiency of information provided to ERCOT, and by enhancing ERCOT's employment screening practices for prospective employees applying to positions that are critical to the security of the electric grid.

### **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**

S.B. 2368 amends the Utilities Code to set out and revise provisions of the Public Utility Regulatory Act (PURA) relating to affiliation with certain foreign entities of certain persons working or participating in the electricity market. While this analysis refers to ERCOT specifically, the bill's provisions would also apply to any other independent organization that becomes certified to perform certain functions for a power region.

S.B. 2368 requires ERCOT, as a condition of maintaining certification as an independent organization, to obtain an attestation from a prospective employee regarding the following subjects before hiring the person for a position that is critical to the security of the electric grid:

- any former travel by the prospective employee to China, Iran, North Korea, Russia, or a country designated by the governor as a threat to critical infrastructure for purposes of Business & Commerce Code provisions prohibiting agreements with certain foreign-owned companies in connection with such infrastructure; and
- any relationship between the prospective employee and a foreign governmental entity or foreign political organization.

S.B. 2368 specifies that the following provisions establishing conditions of registration or operation in a power region apply with respect to registration or operation as a market participant:

- the prohibition against ERCOT registering a business entity or maintaining the registration of a business entity to operate in the applicable power region unless the business entity attests that the entity complies with Business & Commerce Code provisions prohibiting agreements with certain foreign-owned companies in connection with critical infrastructure; and
- the requirement for ERCOT to require as a condition of operating in the applicable power region that a business entity report to ERCOT the purchase of any critical electric grid equipment or service from a company specified by those Business & Commerce Code provisions.

Additionally, the bill authorizes ERCOT to do the following:

- require as a condition of market participant registration that a business entity provide ERCOT with additional information to confirm the accuracy of the aforementioned attestation or report, or a required attestation for a purchase by the business entity that the purchase will not result in access to or control of its critical electric grid equipment by one of the specified companies; and
- disclose that additional information or any other relevant information to the attorney general or the Public Utility Commission of Texas (PUC).

The bill also revises the authorization for ERCOT to immediately suspend or terminate a company's registration or access to any of ERCOT's systems if ERCOT has a reasonable suspicion that the company meets the criteria specified under the applicable Business & Commerce Code provisions by clarifying that the authorization applies with respect to a business entity's registration as a market participant and that the authorization is subject to the PUC's authority to resolve disputes between an affected person and ERCOT.

S.B. 2368 authorizes the attorney general, on request of ERCOT, to investigate the accuracy or sufficiency of information provided to ERCOT by business entities with respect to transactions with certain foreign-owned companies in connection with critical infrastructure and to disclose any new information obtained in relation to the investigation to ERCOT or the PUC.

S.B. 2368 provides an exception to the \$25,000 cap on an administrative penalty against a person regulated under the PURA who violates that act or a related rule or order by setting a cap of \$1 million for a violation of PURA provisions relating to transactions with certain foreign-owned companies in connection with critical infrastructure, as amended by the bill, in which a business entity submitted false or incomplete information to ERCOT.

S.B. 2368 establishes that, to the extent of any conflict, its provisions prevail over another Act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.

### **EFFECTIVE DATE**

September 1, 2025.