

1-1 By: Hancock S.B. No. 2
 1-2 (In the Senate - Filed March 12, 2021; March 18, 2021, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 9, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 9, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2 By: Hancock

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the governance of the Public Utility Commission of
 1-22 Texas, the Office of Public Utility Counsel, and an independent
 1-23 organization certified to manage a power region.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 12.052(a), Utilities Code, is amended to
 1-26 read as follows:

1-27 (a) The governor shall designate a commissioner as the
 1-28 presiding officer. The commissioner designated as the presiding
 1-29 officer must be a resident of this state.

1-30 SECTION 2. Section 13.022(a), Utilities Code, is amended to
 1-31 read as follows:

1-32 (a) The counsellor must:

1-33 (1) be licensed to practice law in this state and a
 1-34 resident of this state;

1-35 (2) have demonstrated a strong commitment to and
 1-36 involvement in efforts to safeguard the rights of the public; and

1-37 (3) possess the knowledge and experience necessary to
 1-38 practice effectively in utility proceedings.

1-39 SECTION 3. Section 39.151, Utilities Code, is amended by
 1-40 amending Subsections (d), (g), and (g-1) and adding Subsections
 1-41 (g-2), (g-3), and (g-4) to read as follows:

1-42 (d) The commission shall adopt and enforce rules relating to
 1-43 the reliability of the regional electrical network and accounting
 1-44 for the production and delivery of electricity among generators and
 1-45 all other market participants, or may delegate to an independent
 1-46 organization responsibilities for adopting ~~establishing~~ or
 1-47 enforcing such rules. Rules ~~Any such rules~~ adopted by an
 1-48 independent organization and ~~any~~ enforcement actions taken by the
 1-49 organization under delegated authority from the commission are
 1-50 subject to commission oversight and review and may not take effect
 1-51 before receiving commission approval. An independent organization
 1-52 certified by the commission is directly responsible and accountable
 1-53 to the commission. The commission has complete authority to
 1-54 oversee and investigate the organization's finances, budget, and
 1-55 operations as necessary to ensure the organization's
 1-56 accountability and to ensure that the organization adequately
 1-57 performs the organization's functions and duties. The organization
 1-58 shall fully cooperate with the commission in the commission's
 1-59 oversight and investigatory functions. The commission may take
 1-60 appropriate action against an organization that does not adequately

2-1 perform the organization's functions or duties or does not comply
 2-2 with this section, including decertifying the organization or
 2-3 assessing an administrative penalty against the organization. The
 2-4 commission by rule shall adopt procedures governing
 2-5 decertification of an independent organization, selecting and
 2-6 certifying a successor organization, and transferring assets to the
 2-7 successor organization to ensure continuity of operations in the
 2-8 region. The commission may not implement, by order or by rule, a
 2-9 requirement that is contrary to an applicable federal law or rule.

2-10 (g) To maintain certification as an independent
 2-11 organization under this section, an organization's governing body
 2-12 must be composed of persons specified by this section and selected
 2-13 in accordance with formal bylaws or protocols of the organization.
 2-14 The bylaws or protocols must be approved by the commission and must
 2-15 reflect the input of the commission. The bylaws must specify the
 2-16 process by which appropriate stakeholders elect members and, for
 2-17 unaffiliated members, prescribe professional qualifications for
 2-18 selection as a member. The bylaws must require that every member of
 2-19 the governing body be a resident of this state and prohibit a
 2-20 legislator from serving as a member. The bylaws may require the use
 2-21 of a professional search firm to identify candidates for
 2-22 [membership of unaffiliated] members described by Subdivisions
 2-23 (4), (5), and (6). The process must allow for commission input in
 2-24 identifying candidates. The governing body must be composed of:

2-25 (1) the chairman of the commission as an ex officio
 2-26 nonvoting member;

2-27 (2) the counsellor as an ex officio voting member
 2-28 representing residential and small commercial consumer interests;

2-29 (3) the chief executive officer of the independent
 2-30 organization as an ex officio voting member, who must be appointed
 2-31 by the governor with the advice and consent of the senate;

2-32 (4) six market participants elected by their
 2-33 respective market segments to serve two-year [~~one-year~~] terms,
 2-34 with:

2-35 (A) one representing independent generators,
 2-36 elected by a majority vote of the members of this market segment who
 2-37 each own and control five percent or more of the installed
 2-38 generation capacity located in the power region;

2-39 (B) one representing investor-owned utilities;

2-40 (C) one representing power marketers;

2-41 (D) one representing retail electric providers
 2-42 who may not be affiliated with an independent generator;

2-43 (E) one representing municipally owned
 2-44 utilities; and

2-45 (F) one representing electric cooperatives;

2-46 (5) one member representing industrial consumer
 2-47 interests and elected by the industrial consumer market segment to
 2-48 serve a two-year [~~one-year~~] term;

2-49 (6) one member representing large commercial consumer
 2-50 interests selected in accordance with the bylaws to serve a
 2-51 two-year [~~one-year~~] term; and

2-52 (7) five members unaffiliated with any market segment
 2-53 who must be appointed by the governor with the advice and consent of
 2-54 the senate [and selected by the other members of the governing body]
 2-55 to serve two-year [three-year] terms.

2-56 (g-1) The bylaws of an independent organization must
 2-57 require that the [The] presiding officer and vice presiding officer
 2-58 of the governing body must be:

2-59 (1) [~~one of the~~] members described by Subsection
 2-60 (g)(7); and

2-61 (2) selected by the governor with the advice and
 2-62 consent of the senate.

2-63 (g-2) A person does not qualify for appointment as a member
 2-64 of the governing body of an independent organization under
 2-65 Subsection (g)(3) or (7) if the person is required to register as a
 2-66 lobbyist under Chapter 305, Government Code. In making an
 2-67 appointment under Subsection (g)(3) or (7), the governor:

2-68 (1) shall give preference to a person who has
 2-69 executive-level business experience representing a range of

3-1 industries; and
3-2 (2) may consider a person recommended by the
3-3 legislature.

3-4 (g-3) Members of the governing body of an independent
3-5 organization certified under this section must serve staggered
3-6 terms. A member described by Subsection (g)(4) or (5) must serve a
3-7 term that expires in an even-numbered year. A member described by
3-8 Subsection (g)(6) or (7) must serve a term that expires in an
3-9 odd-numbered year. As soon as practicable after the date a member
3-10 of the governing body's term expires, the appropriate authority
3-11 must appoint or arrange for the election of a replacement in the
3-12 same manner as the original appointment or election. If a vacancy
3-13 occurs on the governing body, the appropriate authority must
3-14 appoint or arrange for the election of a successor in the same
3-15 manner as the original appointment or election to serve for the
3-16 remainder of the unexpired term.

3-17 (g-4) To maintain certification as an independent
3-18 organization under this section, the organization's governing body
3-19 must establish and implement a formal process for adopting new
3-20 protocols or revisions to existing protocols. The process must
3-21 require that new or revised protocols may not take effect until the
3-22 commission approves a market impact statement describing the new or
3-23 revised protocols.

3-24 SECTION 4. An independent organization certified under
3-25 Section 39.151, Utilities Code, by the Public Utility Commission of
3-26 Texas before September 1, 2021, shall modify the organization to
3-27 comply with Section 39.151, Utilities Code, as amended by this Act,
3-28 not later than September 1, 2021. After September 1, 2021, the
3-29 Public Utility Commission of Texas may decertify an independent
3-30 organization that does not comply with Section 39.151, Utilities
3-31 Code, as amended by this Act.

3-32 SECTION 5. This Act takes effect immediately if it receives
3-33 a vote of two-thirds of all the members elected to each house, as
3-34 provided by Section 39, Article III, Texas Constitution. If this
3-35 Act does not receive the vote necessary for immediate effect, this
3-36 Act takes effect September 1, 2021.

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