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John Frullo  
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Ken King

J. M. Lozano  
Eddie Lucio III  
Ina Minjarez

Jim Murphy  
Andrew Murr  
Toni Rose

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# HOUSE RESEARCH ORGANIZATION

## daily floor report

Sunday, May 23, 2021  
87th Legislature, Number 64  
The House convenes at 1 p.m.  
Part One

Three bills are on today's Major State Calendar and one joint resolution was on Friday's Constitutional Amendments Calendar for second reading consideration. The bills and joint resolution analyzed in Part One of today's *Daily Floor Report* are listed on the following page.

The House will consider a Local, Consent, and Resolutions Calendar today.

Analyses of postponed bills and all bills on second reading can be found online at TLIS, CapCentral, and at <https://hro.house.texas.gov/BillAnalysis.aspx>.



Alma Allen  
Chairman  
87(R) - 64

# HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Sunday, May 23, 2021

87th Legislature, Number 64

Part 1

SB 2 by Hancock	Revising selection process for ERCOT board, requiring Texas residency	1
SB 3 by Schwertner	Preparing ERCOT grid for and responding to weather emergencies	6
SB 25 by Kolkhorst	Designating essential caregiver for in-person visitation at certain facilities	30
SJR 35 by Campbell	Expanding eligibility for certain surviving spouse homestead exemptions	34

SUBJECT: Revising selection process for ERCOT board, requiring Texas residency

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

SENATE VOTE: On final passage, April 14 — 30-1 (Eckhardt)

WITNESSES: For — (*Registered, but did not testify*: Linda Durnin)

Against — Jeffrey Clark, Advanced Power Alliance; Charlie Hemmeline, Texas Solar Power Association; Alison Silverstein; (*Registered, but did not testify*: Mark Stover, Apex Clean Energy; Michael Jewell, Pattern Energy)

On — Michael Jewell, Enel North America; Cyrus Reed, Lone Star Chapter Sierra Club; Katie Coleman, Texas Association of Manufacturers; Kenneth Flippin, US Green Building Council Texas Chapter; (*Registered, but did not testify*: Rene Perez, Libertarian Party of Texas; Thomas Gleeson, Public Utility Commission of Texas)

BACKGROUND: Utilities Code sec. 39.151 requires the Public Utility Commission (PUC) to certify at least one independent organization to perform certain functions related to the electric grid and electricity market in the ERCOT power region, including ensuring the reliability and adequacy of the regional electrical network.

In 1996, the Electric Reliability Council of Texas, also known as ERCOT and referred to here as the ERCOT organization, became the independent operator for the ERCOT power region.

Under sec. 39.151(g), to maintain certification as an independent organization, the organization's governing body must be selected in accordance with formal bylaws and composed of:

- the PUC chairman as an ex officio nonvoting member;
- the public utility counsel as an ex officio voting member representing residential and small commercial consumer interests;
- the CEO of the independent organization (ERCOT organization) as an ex officio voting member;
- six market participants, with one each representing independent generators, investor-owned utilities, power marketers, retail electric providers, municipally owned utilities, and electric cooperatives;
- one representative of industrial consumer interests;
- one representative of large commercial consumer interests; and
- five members unaffiliated with any market segment and selected by the other members.

The presiding officer must be one of the unaffiliated members. The bylaws must require the use of a professional search firm to identify candidates for membership of unaffiliated members.

DIGEST:

CSSB 2 would revise the selection process and set residency requirements for the governing body of the independent organization certified by the Public Utility Commission (PUC) to perform certain functions related to the electric grid and electricity market in the ERCOT power region (ERCOT organization).

The bill would require every member of the ERCOT organization's governing body to be a Texas resident, including the ERCOT organization's CEO, the presiding officer of the PUC, and the public utility counsel.

The bill would require the use of a professional search firm to identify candidates for the six members representing market participants and the members representing industrial consumer interests and large commercial consumer interests, rather than for identifying candidates for the unaffiliated members.

The five unaffiliated members would, in addition to being selected by other members of the governing body, have to be approved by the PUC

and approved by a majority of the governor, the lieutenant governor, and the House speaker. The bill would require the vice presiding officer to be one of the unaffiliated members.

A legislator would be prohibited from serving as a member of the ERCOT organization's governing body. A person would not qualify for selection as the ERCOT organization's CEO or an unaffiliated member of the board if the person was required to register as a lobbyist. In selecting the CEO or an unaffiliated member, the governing body would have to give preference to a person who had executive-level business experience representing a range of industries.

All members, other than the PUC chairman, public utility counsel, and ERCOT organization chief executive officer, would serve staggered, two-year terms. The six members representing market participants and the one representing industrial consumer interests would serve a term that expired in an even-numbered year. The five unaffiliated members and the one representing large commercial consumer interests would serve a term that expired in an odd-numbered year.

To maintain certification, the ERCOT organization's governing body would have to establish and implement a formal process for adopting new protocols or revisions to existing protocols. The process would have to require that new or revised protocols could not take effect until the PUC approved a market impact statement describing them.

Rules adopted by the ERCOT organization and enforcement actions taken by the organization under delegated authority from the PUC could not take effect before receiving PUC approval.

The ERCOT organization would have to comply with the bill by September 1, 2021. After that date, the organization could be decertified by the PUC if it did not comply with the bill's requirements.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS  
SAY:

CSSB 2 would take the necessary first steps to reform the governance of the Electric Reliability Council of Texas (ERCOT organization) in the wake of Winter Storm Uri, which left millions of Texans without power in February. Many people voiced concerns about ERCOT organization board members living out of state during the storm and not experiencing the same hardships as Texas residents, as well as about the board's perceived lack of accountability to the Legislature and to residents. Many have called for increased oversight of the selection of ERCOT governing body members and of the governing body's actions.

The bill would create a system in which Texans could trust by balancing expertise with the needs of consumers, who were the most harmed during and after the winter storm. By requiring Texas residency of all ERCOT organization board members, the bill would ensure members had a personal stake in the Texas electricity market. As the energy capital of the world, Texas has many potential candidates to choose from who possess significant expertise in the state's unique electricity market.

Currently, all protocol changes, including administrative and market protocols, are proposed by sub-groups within the ERCOT organization before being adopted by the governing body. To allow for increased Public Utility Commission (PUC) oversight and accountability, the bill would require all changes to ERCOT protocols to be reviewed and approved by the PUC before adoption.

CRITICS  
SAY:

CSSB 2 would not go far enough to address the issues with the current structure of the ERCOT organization's governing body. The bill should increase the number of members representing the interests of residential customers. Currently, there only is one member who represents those interests.

The bill also could limit the participation of knowledgeable experts on the ERCOT organization's board. While it already is challenging to find individuals who meet certain qualifications, the bill could limit further the pool of potential candidates by requiring Texas residency of all members. The safety and resiliency of the ERCOT grid depends on board members who must understand technical protocols, write market rules, and design

systems to implement policy from the PUC and the Legislature. Some of the most qualified candidates reside out of state.

OTHER  
CRITICS  
SAY:

By requiring the PUC to review and approve rules adopted by the ERCOT organization before they could take effect, CSSB 2 could result in delaying needed, short-order protocol changes.

SUBJECT: Preparing ERCOT grid for and responding to weather emergencies

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

SENATE VOTE: On final passage, March 29 — 31-0

WITNESSES: For — Tim Morstad, AARP; Jason Ryan, CenterPoint Energy; Tom Oney, Lower Colorado River Authority; Bill Barnes, NRG; Mike Nasi, South Texas Electric Cooperative; Thomas Brocato, Steering Committee of Cities Served By Oncor and Texas Coalition for Affordable Power; Jason Modglin, Texas Alliance of Energy Producers; Katie Coleman, Texas Association of Manufacturers.; Michele Richmond, Texas Competitive Power Advocates; Brent Bennett, Texas Public Policy Foundation; David Buntin, Thermon; Amanda Frazier, Vistra Corp; Elyse Yates; (*Registered, but did not testify*: Thure Cannon, Texas Pipeline Association; Linda Durnin)

Against — Jeffrey Clark, Advanced Power Alliance; John Carlton, Jonah Water Special Utility District; Michael Looney, San Angelo Chamber of Commerce; Steve Clouse, San Antonio Water System and TX AWWA; Robin Schneider, Texas Campaign for the Environment; Trent Hightower, Texas Rural Water Association; Charlie Hemmeline, Texas Solar Power Association; Alison Silverstein; (*Registered, but did not testify*: Mark Stover, Apex Clean Energy; Heather Cooke, Austin Water; TJ Patterson, City of Fort Worth; Carrie Simmons, Conservative Texans for Energy Innovation; Shannon Ratliff, Invenergy; Michael Jewell, Pattern Energy and Solar Energy Industries Association; Myra Leo, Schneider Electric; Ryan Paylor, Texas Independent Producers and Royalty Owners Association;)

On — JP Urban, AECT; Thomas Muir, City of Sanger Mayor; Michael Jewell, Enel North America and Octopus Energy; Kenan Ögelman and

Woody Rickerson, ERCOT; Cyrus Reed, Lone Star Chapter Sierra Club; William Stevens, Panhandle Producers and Royalty Owners Association; Tom "Smitty" Smith, Public Citizen; Thomas Gleeson, Public Utility Commission of Texas; Stacey Doré, Sharyland Utilities; Sandie Haverlah, Texas Consumer Association; Julia Harvey, Texas Electric Cooperatives; Todd Staples, Texas Oil and Gas Association; Bob Kahn, Texas Public Power Association; Jean Ryall, The American Clean Power Association; Kenneth Flippin, US Green Building Council Texas Chapter; Shane Johnson; (*Registered, but did not testify*: Colin Leyden, Environmental Defense Fund; Corey Crawford, Paul Dubois, and Mark Evarts, Railroad Commission; Carl Richie, Texas Advanced Energy Business Alliance; Amy Hauck, Texas Department of Public Safety; Catherine Ferguson)

**BACKGROUND:** Utilities Code sec. 39.151 requires the Public Utility Commission (PUC) to certify at least one independent organization to perform certain functions related to the electric grid and electricity market in the ERCOT power region, including ensuring the reliability and adequacy of the regional electrical network.

In 1996, the Electric Reliability Council of Texas, also known as ERCOT and referred to here as the ERCOT organization, became the independent operator for the ERCOT power region.

**DIGEST:** CSSB 3 would provide for the preparation for, prevention of, and response to extreme weather emergencies and extended power outages and establish related requirements for the Public Utility Commission (PUC), the ERCOT organization, the Railroad Commission (RRC), the Texas Division of Emergency Management (TDEM), and the Texas Commission on Environmental Quality (TCEQ).

The bill would provide for the mapping of the state's electricity supply chain; require weather emergency preparedness for natural gas, electric, and water service entities; and provide for certain administrative and civil penalties. The bill would establish the Texas Energy Disaster Reliability Council and the State Energy Plan Advisory Committee and create a power outage alert. The bill also would set requirements for load management, provision of transmission service, and critical natural gas facilities during energy emergencies.

**Supply chain mapping committee.** The Texas Electricity Supply Chain Security and Mapping Committee would be established to map the state's electricity supply chain, identify related critical infrastructure sources, establish best practices to prepare facilities to maintain service in an extreme weather event and recommend oversight and compliance standards for those facilities, and designate priority service needs to prepare for, respond to, and recover from an extreme weather event.

The bill would define "electricity supply chain" to mean facilities and methods used for producing, treating, processing, pressurizing, storing, or transporting natural gas for delivery to electric generation facilities and critical infrastructure necessary to maintain electricity service.

*Membership.* The committee would be composed of the PUC executive director, the RRC executive director, the president and CEO of the ERCOT organization, and the chief of TDEM. The PUC executive director would serve as the committee chair, and the RRC executive director would be vice chair.

*Powers and duties.* The committee would have to meet at least quarterly and would be required to:

- map the state's electricity supply chain to designate priority electricity service needs during extreme weather events;
- identify and designate the sources in the supply chain necessary to operate critical infrastructure;
- develop a communication system between critical infrastructure sources, the PUC, and the ERCOT organization to ensure that electricity and natural gas supplies were prioritized to those sources during an extreme weather event; and
- establish best practices to prepare facilities that provided electric and natural gas service to maintain service in an extreme weather event and recommend oversight and compliance standards.

The committee would have to update the map at least once each year. The PUC would have to create, maintain, and update at least annually a database identifying critical infrastructure sources with priority electricity

needs to be used during an extreme weather event. The information maintained in the database would be confidential and not subject to disclosure under public information laws.

*Report.* The committee would have to submit a report to the governor, the lieutenant governor, the House speaker, and the Legislature by January 1, 2022, that included certain items related to the committee's powers and duties as listed in the bill. The report would be public information except for portions considered confidential under state or federal law.

**Weather emergency preparedness for certain facilities.** The bill would provide requirements for weather emergency preparedness for gas supply chain facilities, gas pipelines, electric generation facilities, transmission providers, and water utilities.

For gas supply chain facilities and gas pipelines, the RRC would have to inspect the facilities for compliance with weather emergency preparedness requirements under the bill, provide a facility's owner with a reasonable period of time in which to remedy any violation discovered, and report to the attorney general any violation that was not remedied in that time. The RRC would prioritize inspection based on risk level.

The ERCOT organization would have to take the above action for generation assets and transmission providers in the power region, inspecting each facility for compliance with reliability standards established under the bill.

The RRC would have to require a gas supply chain facility operator or gas pipeline operator and the PUC would have to require an electric generator that experienced repeated or major weather-related forced interruptions of production or service, as applicable, to contract with a person who was not an employee of the operator or provider to assess weatherization plans, procedures, and operations and submit the assessment to the RRC or to the PUC and the ERCOT organization, as appropriate. The appropriate regulatory entity could require an operator or provider to implement recommendations in the assessment.

*Gas supply chain facility.* The RRC would have to require a gas supply chain facility operator to implement measures to prepare to operate during a weather emergency. A "gas supply chain facility" would mean a facility that was:

- used for producing, treating, processing, pressurizing, storing, or transporting natural gas;
- not primarily used to support liquefied natural gas pretreatment, liquefaction, or regasification facilities in the business of exporting or importing liquefied natural gas to or from foreign countries; and
- otherwise regulated by the RRC and not regulated under laws governing gas utilities.

The weather emergency preparedness requirement would apply only to a gas supply chain facility included on the electricity supply chain map created under the bill.

If the RRC determined that a person had violated a rule adopted under the bill, it would have to notify the attorney general of a violation that was not remedied in a reasonable amount of time. The attorney general would have to initiate a suit to recover a penalty for the violation in the manner provided under laws governing the regulation of natural gas.

A person who violated a rule would be liable for a penalty of no more than \$1 million for each offense. The RRC would have to establish a classification system to be used by a court that included a range of penalties that could be recovered for each class of violation based on criteria listed in the bill. The classification system would have to provide that a penalty in an amount that exceeded \$5,000 could be recovered only if the violation was included in the highest class of violations.

*Gas pipelines.* The RRC would have to adopt rules regarding measures a gas pipeline facility operator would be required to implement to prepare the facility to maintain service quality and reliability during extreme weather conditions if the facility directly served a natural gas electric generation facility operating solely to provide power to the grid for the ERCOT power region and was included on the electricity supply chain map.

The RRC would be required to assess an administrative penalty against a person if a rule violation was not remedied in a reasonable period of time in the manner provided by the bill. The penalty for each violation could not exceed \$1 million. Each day a violation continued could be considered a separate violation for the purpose of penalty assessment. Guidelines to determine the amount of penalty would have to provide that a penalty in an amount that exceeded \$5,000 could be assessed only if circumstances justified the enhancement of the penalty.

*Electric generation facilities.* The PUC would have to require each provider of electric generation service to implement measures to prepare generation assets to provide adequate electric generation service during a weather emergency according to reliability standards adopted by the PUC. This requirement would apply only to a municipally owned utility (MOU), electric cooperative, power generation company, or exempt wholesale generator that sold energy in the ERCOT power region.

The ERCOT organization would have to review, coordinate, and approve or deny requests by electric generation providers for a planned power outage during any season and for any period of time.

*Transmission providers.* The PUC would have to require each electric cooperative, MOU, and transmission and distribution utility (TDU) providing transmission service in the power region to implement measures to prepare facilities to maintain service quality and reliability during a weather emergency according to standards adopted by the PUC.

*Penalties for violation of Public Utility Regulatory Act.* The PUC would have to impose an administrative penalty on an electric generator or transmission provider, including an MOU or electric cooperative, that violated a rule relating to weather emergency preparedness and did not remedy that violation within a reasonable period of time.

Under the bill, the penalty for a violation of Public Utility Regulatory Act provisions governing electric utilities could be in an amount not to exceed \$1 million. Each day a violation continued or occurred would be a separate violation for purposes of imposing a penalty.

*Water utilities.* The bill would require an affected utility to ensure the emergency operation of its water system during an extended power outage at a minimum water pressure of 20 pounds per square inch, or at a water pressure level approved by TCEQ, as soon as safe and practicable following the occurrence of a natural disaster. An affected utility could adopt and enforce limitations on water use while the utility was providing emergency operations.

Under this section, an "affected utility" would mean a retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnished water service to more than one customer and was not an affected utility in certain counties (Harris and Fort Bend counties).

An affected utility would have to adopt and submit to TCEQ for approval an emergency preparedness plan that demonstrated the utility's ability to provide the emergency operations and a timeline for implementing the plan. TCEQ would have to review a submitted plan, and if it determined that the plan was not acceptable, TCEQ would have to recommend changes within 90 days of receiving the plan.

Each affected utility would have to submit a plan by March 1, 2022, and implement a TCEQ-approved plan by July 1, 2022. A utility could file a request for an extension of no more than 90 days for either deadline, and TCEQ would have to approve the extension for good cause shown.

In accordance with TCEQ rules, an emergency preparedness plan for a provider of potable water would have to provide for certain things listed in the bill, including the sharing of auxiliary generator capacity with one or more affected utilities, the use of portable generators capable of serving multiple facilities and on-site electrical generation or distributed generation facilities, the hardening the electric transmission and distribution system serving the water system, the designation of the water system as a critical load facility, and water storage capabilities.

Each affected utility that supplied, provided, or conveyed raw surface water would have to include in its emergency preparedness plan provisions for demonstrating the capability of each raw water intake pump

station, pump station, and pressure facility to provide raw water service to its wholesale customers during emergencies. This requirement would not apply to raw water services that were unnecessary or otherwise subject to interruption or curtailment during emergencies under a contract.

TCEQ would be required to provide an affected utility with access to its financial, managerial, and technical contractors to assist the utility in complying with the plan submission deadline. TCEQ also would have to create a plan template that contained a list and explanation of the preparations an affected utility could make for its plan to be approved and a list of all TCEQ rules and standards pertaining to emergency preparedness plans.

TCEQ would have to inspect each utility to ensure compliance with the approved plan. TCEQ could grant a waiver of these requirements to an affected utility if it determined that compliance would cause a significant financial burden on customers of the affected utility.

TCEQ would have to coordinate with the PUC in administering this section. TCEQ would have to adopt rules to implement these provisions as an alternative to any rule requiring elevated storage. Except as required under the bill, information provided by an affected utility would be confidential and not subject to disclosure under public information laws.

The bill would expand current provisions governing the coordination of emergency operations that applies to affected utilities in certain counties (Harris and Fort Bend counties) and apply them to affected utilities under the bill. Each affected utility would have to submit to the PUC and certain other entities information identifying all water and wastewater facilities that qualified for critical load status by November 1, 2021.

**PUC weather emergency preparedness reports.** The bill would require the PUC to submit a weather emergency preparedness report to the lieutenant governor, the House speaker, and the Legislature by September 30 of each even-numbered year, rather than the one report that was required under current law to be submitted in 2012. The bill would expand the report to include an analysis of emergency operations plans of retail electric providers in addition to power generation entities. The bill also

would require, rather than allow, the PUC to require an entity to file an updated plan if it found the plan on file did not contain adequate information to determine whether the entity could provide adequate natural gas services.

**RRC weather emergency preparedness reports.** The RRC would have to analyze emergency operations plans developed by operators of facilities that produced, treated, processed, pressurized, stored, or transported natural gas and were included on the electricity supply chain map. The RRC also would be required to prepare a report on weatherization preparedness of those facilities. In preparing the report, the commission would have to perform certain actions as listed in the bill, including review any emergency operations plans on file with the RRC and analyze the ability of the electricity supply chain, as mapped, to withstand extreme weather events in the upcoming year.

The RRC would have to require an entity to file an updated emergency operations plan if it found that a plan on file did not contain adequate information to determine whether the entity could provide adequate natural gas services.

The commission would have to submit the weather emergency preparedness report to the lieutenant governor, the House speaker, and the Legislature by September 30 of each even-numbered year.

The RRC could submit additional reports if it found that significant changes to weatherization techniques had occurred or were necessary to protect consumers or vital services, or if there had been changes to statutes or rules relating to weatherization. Additional reports would have to be submitted no later than March 1 for a summer weather emergency preparedness report and September 1 for a winter report.

The emergency operations plans submitted for a report and any additional plans would be public information except for the portions of the plan considered confidential under state or federal law. If portions of a plan were confidential, the plan would be provided to the RRC in a redacted form for public inspection.

**Reliability council.** The bill would establish the Texas Energy Disaster Reliability Council to:

- prevent extended natural gas supply failures or power outages and implement procedures to manage emergencies caused by disasters;
- maintain records of critical infrastructure facilities to maintain service in a disaster;
- coordinate the delivery of fuel to serve human needs natural gas customers and providers of electric generation service in a disaster;
- monitor supply chains for the electric grid to minimize service disruptions; and
- make recommendations on methods to maintain the reliability of the ERCOT grid during a disaster.

An "extended power outage" would mean an interruption in electric service lasting more than 24 hours. The bill would add to the existing statutory definition of "disaster" to include an extended power outage.

*Membership.* The six-member council would consist of the presiding officer and the executive director of the PUC, the chairman and the executive director of the RRC, the CEO of the ERCOT organization, and the chief of TDEM, who also would serve as the presiding officer.

*Meetings.* The council would be required to hold meetings during the weeks of March 1 and September 1 each year. In addition, the council would have to convene as soon as possible during or in anticipation of a disaster to address an actual or potential extended power outage and to coordinate fuel supplies and minimize the outage's duration. Meetings and information obtained or created by the council would not be subject to state open meeting or public disclosure requirements.

*Report.* By November 1 of each even-numbered year, the council would have to submit a report to the Legislature on the reliability and stability of the electric supply chain that included recommendations on methods to strengthen the supply chain and to decrease the frequency of extended power outages caused by a disaster.

Information written, produced, collected, assembled, or maintained under law or in connection with official business of the council would be subject to provisions governing information for legislative purposes in the same manner as public information.

**Monitoring weather.** TDEM would be required to create a list of suggested actions for state agencies and the public to take to prepare for winter storms, organized by severity of storm based on the National Weather Service Winter Storm Severity Index.

**Power outage alert.** The Department of Public Safety (DPS), with the cooperation of the Texas Department of Transportation (TxDOT), TDEM, the Office of the Governor, and the PUC, would have to develop and implement an alert to be activated when the power supply in the state could be inadequate to meet demand.

*Administration.* The public safety director would be the statewide coordinator of the power outage alert. The director would have to adopt rules and issue directives to ensure proper implementation of the alert, which would have to include procedures for the PUC and the ERCOT organization to communicate with the public safety director about the alert.

The PUC would be required to adopt criteria for the content, activation, and termination of the alert, and the criteria would have to provide for an alert to be regional or statewide.

*Participation.* DPS would have to recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other persons to assist in developing and implementing the power outage alert system.

A state agency participating in the alert system would be required to cooperate with DPS and assist in developing and implementing the alert system and establish a plan for providing information to its officers, investigators, or employees once the alert system had been activated.

*Activation of alert.* When the PUC or the ERCOT organization notified DPS that the criteria adopted by the PUC for the activation of the alert had been met, DPS immediately would have to issue a power outage alert after confirming the information's accuracy.

DPS would have to send the alert to designated media outlets, and following receipt of the alert, participating radio and television stations and other media outlets could issue the alert at designated intervals. The power outage alert would have to include a statement that electricity customers could experience a power outage.

*Termination of alert.* The public safety director would be required to terminate the power outage alert as soon as practicable after the PUC or the ERCOT organization notified DPS that the criteria adopted by the PUC for the termination of the alert had been met.

*Limitation on participation.* TxDOT would have to establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state. TxDOT would not be required to use the existing system in the statewide alert system if it received notice from the U.S. Department of Transportation Federal Highway Administration that the use of the signs would result in the loss of federal highway funding or other punitive actions taken against the state due to noncompliance with federal laws, regulations, or policies.

**Ancillary services.** The PUC would have to:

- review the type, volume, and cost of ancillary services to determine whether those services would continue to meet the needs of the electricity market in the ERCOT power region;
- evaluate whether additional voluntary seasonal, month-ahead, or other forward products would enhance reliability while providing adequate incentives for dispatchable generation; and
- ensure that all generation resources, energy storage resources, and loads in the ERCOT power region were allowed to provide ancillary services on a voluntary basis and that the services were procured and costs recovered on an equitable and nondiscriminatory basis.

The PUC could require the ERCOT organization to modify the design, procurement, and cost allocation of ancillary services for the region in a manner consistent with cost-causation principles and on a nondiscriminatory basis.

**Dispatchable generation.** For the purposes of bill's provisions on dispatchable generation, a generation facility would be considered to be non-dispatchable if the facility's output was controlled primarily by forces outside of human control.

The PUC would have to ensure that the ERCOT organization:

- established requirements to meet the reliability needs of the power region;
- periodically determined the quantity and characteristics of ancillary or reliability services necessary to ensure appropriate reliability during extreme heat and extreme cold weather conditions and times of low non-dispatchable power production;
- procured ancillary or reliability services on a competitive basis to ensure appropriate reliability during those conditions and times;
- developed qualification and performance requirements for providing ancillary or reliability services, including penalties for failure to provide the services; and
- sized the services procured to prevent prolonged rotating outages due to net load variability in high-demand, low-supply scenarios.

The PUC would have to ensure that:

- resources that provided ancillary and reliability services were dispatchable and able to meet continuous operating requirements for the season in which the service was procured;
- winter resource capability qualifications included on-site fuel storage, dual fuel capability, or fuel supply arrangements to ensure winter performance for several days; and
- summer resource capability qualifications included facilities or procedures to ensure operation under drought conditions.

**Distributed generation reporting.** The ERCOT organization would have to require an owner or operator of distributed generation to register information necessary for the interconnection of the distributed generator with the organization and interconnecting TDU. This requirement would not apply to distributed generation serving a residential property.

"Distributed generation" would mean an electrical generating facility that could be located at a customer's point of delivery, was connected at a voltage less than 60 kilovolts, and could be connected in parallel operation to the utility system.

**Load management.** The PUC would have to allow a TDU to design and operate a load management program for nonresidential customers to use during extreme weather where the ERCOT organization had declared an emergency. A TDU would be permitted to recover the reasonable and necessary costs of the program. A load management program would not be considered a competitive service.

*Involuntary and voluntary load shedding.* The PUC would be required adopt a system to allocate load shedding among entities providing transmission service in the power region during an involuntary load shedding event initiated by the ERCOT organization during an energy emergency. The system would have to provide for allocation of the load shedding obligation to each entity in different seasons based on historical seasonal peak demand in their service territory.

The PUC would have to categorize types of critical load that could be given the highest priority for power restoration and require electric cooperatives, MOUs, and TDUs to submit to the PUC and the ERCOT organization customers or circuits the entity had designated as critical load and a plan for participating in an involuntary load shedding event.

The PUC would have to require electric cooperatives and MOUs providing transmission service to maintain lists of customers willing to voluntarily participate in load reduction and coordinate with municipalities, businesses, and customers that consumed large amounts of electricity to encourage voluntary load reduction.

After each load shedding event, the PUC could conduct an examination of the implementation of load shedding, including whether each electric cooperative, MOU, and TDU complied with its plan filed with the PUC.

This section would not abridge, enlarge, or modify the obligation of a cooperative or utility to comply with federal reliability standards.

*Load shedding exercises.* The PUC and the ERCOT organization would have to conduct simulated or tabletop load shedding exercises with providers of electric generation service and transmission and distribution service. The PUC would have to ensure that each year at least one exercise each was conducted during a summer month and during a winter month.

**Critical natural gas facilities during an energy emergency.** The PUC and the RRC would have to work together and each adopt rules to establish a process to designate certain natural gas facilities and entities associated with providing natural gas in this state as critical during an energy emergency.

At a minimum, the PUC's rules would have to:

- ensure that electric cooperatives, MOUs, TDUs, and the ERCOT organization were provided with critical customer designation and critical natural gas supply information;
- provide for a prioritization for load-shed purposes of the designated entities and facilities during an energy emergency; and
- provide discretion to electric cooperatives, MOUs, and TDUs to prioritize power delivery and restoration among the customers on their respective systems.

At a minimum, the RRC's rules would have to:

- establish eligibility and designation requirements for persons under the jurisdiction of the RRC who had to provide critical customer designation and critical natural gas supply information to electric cooperatives, MOUs, TDUs, and the ERCOT organization;

- require that only facilities and entities that were prepared to operate during a weather emergency could be designated as a critical customer; and
- consider essential operational elements when defining critical customer designations and critical natural gas supply information.

The PUC would have to require each electric cooperative, MOU, and TDU to exclude any circuits that provided power to an entity or facility designated as critical from participation in the cooperative's or utility's attempt to shed load in response to a rolling blackout initiated by the ERCOT organization or another reliability council or power pool in which the cooperative or utility operated.

**Customer awareness.** An electric utility providing electric delivery service for a retail electric provider (REP) would have to provide to the REP information about:

- the electric utility's procedures for implementing involuntary load shedding initiated by the ERCOT organization;
- the types of customers who could be considered critical care residential customers, critical load industrial customers, or critical load under the bill and the procedure for a customer to apply for such a designation; and
- reducing electricity use at times when involuntary load shedding events could be implemented.

REPs would have to provide the above information periodically with bills sent to its retail customers. MOUs and electric cooperatives also would have to provide the same information periodically with bills sent to their retail customers.

A "critical care residential customer" would mean a residential customer who had a person permanently residing in the customer's home who had been diagnosed by a physician as being dependent upon an electric-powered medical device to sustain life. A "critical load industrial customer" would mean an industrial customer for whom an interruption or

suspension of electric service would create a dangerous or life-threatening condition on the customer's premises.

**Wholesale indexed products.** A REP could enroll a residential or small commercial customer in a wholesale indexed product only under certain circumstances, including if:

- the product capped the monthly average all-in price per kilowatt hour of electricity charged to the customer at a maximum of 200 percent more than the monthly average price of electricity during the same month for the prior year;
- the REP provided to each potential customer before enrollment and in each customer billing statement notice of the highest monthly average price for the next six months; and
- for service starting at the beginning of the next month, the REP allowed the customer to switch without charge or penalty to a fixed rate product offered to other customers.

A "wholesale indexed product" would mean a retail electric product in which the price a customer paid for electricity included a direct pass-through of real-time settlement point prices determined by the ERCOT organization.

This section would not apply to accounts of a customer on the same property or contiguous properties in which one or more of the accounts had a peak demand of at least 250 kilowatts.

**Billing for water service during extreme weather emergency.** The bill would require a retail public utility that was required to possess a certificate of public convenience and necessity or a district and affected county that furnished retail water or sewer utility service to defer collection of the full payment of bills that were due during an extreme weather emergency until after the emergency was over. The provider would have to work with customers to establish a pay schedule for deferred bills.

In this section, "extreme weather emergency" would mean a period when the previous day's highest temperature did not exceed 10 degrees

Fahrenheit and the temperature was predicted to remain at or below that level for the next 24 hours.

*Penalties.* TCEQ would establish a classification system to be used by a court for violations that included a range of penalties that could be recovered for each class of violation based on criteria listed in the bill.

**Penalty for disconnection of gas service.** The bill would enhance the civil penalty if a gas utility disconnected natural gas service to a residential customer during an extreme weather emergency or failed to defer collection of the full payment of bills until the emergency was over. A civil penalty would be in an amount of not less than \$1,000 and not more than \$1 million for each violation.

The RRC by rule would have to establish a classification system to be used by a court for violations that included a range of penalties that could be recovered for each class of violation based on criteria listed in the bill. The classification system would have to provide that a penalty in an amount that exceeded \$5,000 could be recovered only if the violation was included in the highest class of violations.

**Energy plan advisory committee.** The bill would create the State Energy Plan Advisory Committee, which would be composed of 12 members appointed by the governor, lieutenant governor, and House speaker, to prepare a comprehensive plan that would:

- provide recommendations for removing barriers in the electricity and natural gas markets that prevented sound economic decisions;
- provide recommendations for using methods to improve the reliability, stability, and affordability of electric service; and
- evaluate the electricity market structure and pricing mechanisms used in the state, including the ancillary services market and emergency response services.

The state energy plan would have to be submitted to the Legislature by September 1, 2022.

**Other provisions.** The bill would require the PUC and the ERCOT organization annually to review statutes, rules, protocols, and bylaws that applied to conflicts of interest for PUC commissioners and for members of the ERCOT organization's governing body and submit to the Legislature a report on their effects on the ability of the PUC and the ERCOT organization to fulfill their duties.

Within six months of the bill's effective date, the PUC would have to adopt rules necessary to implement the bill's provisions relating to weather emergency preparedness of entities selling electric energy at wholesale in the ERCOT power region or providing transmission service.

Within six months of the production of the electricity supply chain map, the RRC would have to adopt rules necessary to implement the bill's provisions relating to weather emergency preparedness of gas supply chain facilities and pipelines.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

**SUPPORTERS  
SAY:**

CSSB 3 would help ensure the reliability and resiliency of the ERCOT Grid, making certain Texas was better prepared for future extreme weather emergencies by addressing some of the key issues that arose during and after Winter Storm Uri in February. During the storm, much of the state's power generation capacity was unavailable or went offline because of operations failures related to icy weather and low temperatures, contributing to widespread, extended power outages that millions of Texans endured for about a week. The key issues most cited included a lack of weatherization of natural gas and electric facilities, a lack of oversight, a breakdown of communication with the public, and coordination and planning failures within and between state regulatory agencies. The bill would address these issues by strengthening the state's prevention of, preparation for, and response to energy emergencies.

The ERCOT grid is an interdependent system of electric generators, some of which rely on natural gas providers, and transmission and distribution utilities. A lack of coordination among natural gas producers, electric

providers, and state regulatory bodies has been cited as contributing to the extended power outages in February. During the storm, power was shut off to some natural gas facilities because they were not registered as critical load serving electric generation, affecting the natural gas supply to some electricity generation facilities. State agencies, such as the Public Utility Commission (PUC) and the Railroad Commission (RRC), should coordinate to ensure the proper functioning of the energy utility supply and generation system, which the bill would address by requiring the mapping of the state's electricity supply chain to designate priority electricity service needs.

CSSB 3 would ensure that information critical for the efficient flow of electricity to natural gas production facilities and thus the flow of natural gas to electric generators was provided to responsible entities. As Texas continues to grow and more critical infrastructure is built, it will be increasingly important to have a central repository for this information to help prevent service outages to any critical infrastructure in the future.

The bill also would establish weatherization requirements for electricity generators, transmission providers, natural gas facilities and pipelines, and water utilities. A lack of sufficient preparation for cold temperatures and icy conditions led to the extended power outages during the storm, and the bill would prevent this from reoccurring by requiring the applicable regulatory bodies to ensure that facilities in the electricity supply chain were prepared for future extreme weather events. While some have raised concerns about the cost of weatherization, that cost would not compare to the financial and human cost of a repeat of February's statewide power outages.

Texas has a diverse climate with varying temperature ranges, so weatherization should not be approached as "one size fits all." By requiring the PUC and RRC to develop rules instead of setting specific standards in statute, the bill would mandate weatherization but be broad enough to provide flexibility to meet the needs of facilities across the state. The bill appropriately would provide each entity the discretion to choose the best weatherization methods for its facilities.

The bill would ensure that the parts of the natural gas supply chain involved in electric generation were weatherized, including by providing for penalties for violations of the bill's requirements. Much of Texas' daily natural gas production is not used for electric generation, and many wells are operated by smaller owners. Putting additional requirements on these portions of the gas supply chain, especially since they are not part of electric generation, could force these facilities to shut down due to an unnecessary increase in costs. Additionally, the bill would link the weatherization of the natural gas supply chain to the electricity supply chain map, which would ensure critical facilities were subject to weatherization requirements.

The bill would create a strong tool to ensure compliance with reliability requirements by directing the PUC and the RRC to create penalty matrices with the ability to assess penalties of up to \$1 million for a violation. The penalty matrices would provide transparency by ensuring that regulated entities were aware of what they could be charged for a violation. Based on current rules related to tiered penalty systems, violations of the bill would be classified in the highest tier, resulting in significant penalties under the bill.

The lack of communication and coordination between the electricity and natural gas industries has been identified as another key issue that played a role in the extended power outages during the recent winter storm. Currently, the only coordination occurs through an unofficial working group, the Texas Energy Reliability Council (TERC), made up of representatives from the PUC, the RRC, the ERCOT organization, and other industry professionals. By formalizing TERC and creating clear lines of communication and authority, the bill would enable the electricity and natural gas system to better respond to a disaster and prevent the foreseeable consequences of any resulting power outages.

Additionally, by creating the power outage alert, the bill would provide a way for state agencies to work with media outlets to inform the public before and during a weather emergency, including by letting the public know about any expected power outages.

CSSB 3 also would protect consumers by only allowing the sale of wholesale indexed products by retail electric providers to residential customers under certain circumstances. After the winter storm, during which the wholesale price of electricity remained for days at the \$9000-per-megawatt-hour offer cap, some customers of wholesale indexed products were left with electricity bills worth thousands of dollars. Some raised concerns about consumers being misguided about the risk associated with extreme fluctuations in electricity prices. The bill would ensure transparency with any prospective and current customer by requiring residential customers to be provided with pricing information and also establishing a price cap.

CRITICS  
SAY:

CSSB 2 would not go far enough to ensure Texas was prepared for future extreme weather emergencies. The bill focuses on electricity supply, missing the other half of the equation: electricity demand. To further enhance resiliency, the bill should include projects focused on reducing energy demand and increasing energy efficiency, which could include demand response, weatherization of buildings and homes, and conservation efforts. Increasing energy efficiency and reducing demand would help prevent future blackouts.

Requirements for water utilities under the bill, namely those relating to backup power generation, could impose a burden for water ratepayers with many feasibility challenges, while not addressing the root causes of the water outages and other issues water utilities and customers faced as a result of the winter storm. To comply, water utilities would have to spend hundreds of millions of dollars, likely resulting in a rate increase on customers. The requirements also could result in water utilities competing with power companies for fuel availability during weather emergencies.

Provisions related to dispatchable energy could conflict with those related to ancillary services, setting up potential discriminatory treatment of renewable energy sources and imposing a cost burden on those sources by signaling a preference for certain sources. Overly prescriptive language, like requiring several days' worth of fuel storage, precludes certain sources from providing reliability services. The bill should more broadly focus on ensuring reliability to clarify that all resources could provide

reliability services, including energy storage, demand response, and solar and wind when combined with storage.

OTHER  
CRITICS  
SAY:

CSSB 3 would not adequately address the lack of winter weather preparedness of electricity supply chain infrastructure in the ERCOT power region. The bill should require the entire gas supply chain to weatherize. It also should require facilities to ensure the continuity of service during weather emergencies, rather than merely prepare facilities to provide service. The penalties also would not go far enough to ensure enforcement of weatherization requirements. While the bill would provide for penalties as high as \$1 million per violation, under a tiered penalty system, the maximum penalty would be assessed only for egregious violations. This opens up the possibility for minimal penalties, which would erode the ability for steep penalties to provide incentive for facilities to weatherize.

CSSB 2 should include the Texas Commission on Environmental Quality (TCEQ) and the Texas Department of Transportation (TxDOT) on the Texas Energy Disaster Reliability Council. TCEQ should be involved in anticipation of and during an emergency to mitigate negative impacts to the environment following a disaster. TxDOT also should be included to ensure that roads were accessible and transportation infrastructure was able to facilitate the efficient flow of resources between the electricity and natural gas industries during a disaster. The council should include members representing residential consumer interests.

The bill should ensure the State Energy Advisory Committee was required to conduct open meetings to ensure transparency and allow for consumer input.

CSSB 2 could be too narrowly focused on extreme weather threats to Texas' electricity system. To ensure a resilient electricity supply chain, the committee should address all potential threats, both natural and manmade.

The bill would not go far enough to address the financial impact of the storm and should include provisions limiting the time the offer cap for wholesale electricity prices could be in effect, establishing an emergency system-wide offer cap based on actual cost of generation, capping

ancillary service prices in relation to the high cap, and requiring the PUC to review price caps every five years. Such provisions also would protect consumers.

NOTES:

According to the Legislative Budget Board (LBB), CSSB 3 would have a negative impact of \$38.7 million to general revenue through fiscal 2023 for the Railroad Commission (RRC), the Public Utility Commission (PUC), the Texas Commission on Environmental Quality (TCEQ), and Texas Division of Emergency Management (TDEM) to implement the bill. CSSB 3 could have a significant impact on local governments due to the requirement for municipally owned utilities to weatherize facilities, but the LBB could not determine those fiscal implications.

The RRC indicated it would need a professional services contract and 130 full-time equivalent employees (FTEs), including inspectors and support staff, for the bill's weatherization requirements. In addition, the cost for the RRC would include an IT solution to track gas well interruptions.

The cost anticipated by the PUC would include complex rulemakings that would require additional staffing levels and third-party contracts with electric market and engineering consultants. PUC estimated it would need 10 additional FTEs to fulfill the bill's requirements.

TCEQ estimated it would need 17 FTEs to implement the bill. The cost for TDEM would include additional FTEs to support local jurisdictions and assist in planning and preparedness functions in the bill.

**SUBJECT:** Designating essential caregiver for in-person visitation at certain facilities

**COMMITTEE:** Human Services — committee substitute recommended

**VOTE:** 8 ayes — Frank, Hinojosa, Klick, Meza, Neave, Noble, Rose, Shaheen

0 nays

1 absent — Hull

**SENATE VOTE:** On final passage, March 17 — 29-0

**WITNESSES:** None.

**DIGEST:** CSSB 25 would grant residents of certain long-term care facilities, or the resident's guardian or legally authorized representative, the right to designate an essential caregiver with whom a facility could not prohibit in-person visitation and establish related guidelines. The bill would define "essential caregiver" as a family member, friend, guardian, or other individual selected by a resident, resident's guardian, or resident's legally authorized representative for in-person visits.

The bill would apply to residents in a nursing facility, assisted living facility, intermediate care facility for individuals with an intellectual disability, residence providing home and community-based services, or state supported living center.

**Guidelines.** As soon as practicable after the bill's effective date, the executive commissioner of the Health and Human Services Commission (HHSC) by rule would have to develop guidelines to assist facilities in establishing essential caregiver visitation policies and procedures. The guidelines would have to require facilities to:

- allow a resident, resident's guardian, or resident's legally authorized representative to designate an essential caregiver for in-person visitation;

- establish a visitation schedule allowing the essential caregiver to visit the resident for at least two hours each day;
- establish procedures to enable physical contact between the resident and essential caregiver; and
- obtain the essential caregiver's signature certifying they would follow the facility, program provider, or center's safety protocols and any applicable rules.

Except for residents in state supported living centers, the guidelines would require facilities to allow the designation of an essential caregiver in the same manner that a resident would designate a power of attorney.

Safety protocols adopted by a facility for an essential caregiver could not be more stringent than protocols for the staff of the facility or residence.

**Revocation of essential caregiver designation.** The bill would allow a facility to revoke an individual's designation as an essential caregiver if the caregiver violated the facility's safety protocols or rules. If an individual's designation as an essential caregiver was revoked, the resident, resident's guardian, or resident's legally authorized representative would have the right to immediately designate another individual as the resident's essential caregiver.

**Suspension of essential caregiver visitation.** Under the bill, a facility could petition HHSC to suspend in-person essential caregiver visits for up to seven days if in-person visitation posed a serious community health risk. HHSC could deny such a request if it determined that in-person visitation did not pose a serious community health risk.

The bill would require a facility to request an extension from HHSC to suspend in-person essential caregiver visitation for more than seven days. HHSC could not approve an extension for a period longer than seven days, and a facility would have to separately request each extension. The bill would prohibit a facility from suspending in-person essential caregiver visitation for more than 14 days in any year.

**Other provisions.** The bill could not be construed as requiring an essential caregiver to provide necessary care to a resident, and a facility could not require an essential caregiver to provide necessary care.

The bill would take effect September 1, 2021.

**SUPPORTERS  
SAY:**

CSSB 25, in combination with SJR 19 by Kolkhorst (Frank), would grant residents of long-term care facilities the right to designate an essential caregiver for in-person visitation, ensuring that residents had access to an essential caregiver at all times, with limited exceptions. Essential caregivers are vital in providing hands-on care and social and emotional support to residents that supplements care provided by facility staff.

During the COVID-19 pandemic, visitation restrictions were difficult for residents and their families as well as for facility staff. Many residents were isolated and lacked connection and physical touch from loved ones for several months, and as a result of these restrictions, some patients died alone. By allowing residents to designate an essential caregiver, the bill and its joint resolution would ensure vulnerable Texans had access to loved ones, which could improve residents' physical and mental health.

The bill would allow long-term care facilities to request a suspension of essential caregiver visitation for seven days if in-person visitation posed a serious community health risk, with possible extensions in seven-day increments. This would create flexibility for facilities in responding to future public health emergencies while limiting disruption to an essential caregiver's access to a resident. The 14-day cap is necessary to ensure residents do not experience prolonged periods of isolation as they did during the pandemic.

The bill would allow a resident to immediately designate another individual as an essential caregiver if the initial essential caregiver's designation was revoked. Designating only one essential caregiver at a time is an appropriate balance between ensuring residents receive visits from a loved one and providing flexibility for facilities to respond to a future disease outbreak.

CRITICS  
SAY:

While it is important for long-term care residents to have access to essential caregivers, CSSB 25 would not provide sufficient flexibility for facilities to respond to future public health emergencies. Limiting suspension of essential caregiver in-person visitation to 14 days per year may not provide enough time for facilities to contain a future disease outbreak. Requiring facilities to provide a minimum two-hour period for essential caregivers to visit residents could strain staff resources, especially for facilities that already struggle to maintain adequate staffing to meet residents' needs.

The bill would not provide sufficient protection for essential caregivers that unintentionally violated a facility's safety protocols, potentially subjecting a caregiver's designation to revocation. To avoid unnecessary revocation, the bill should ensure revocations apply only if an essential caregiver intentionally violated a safety protocol and the action created a health and safety risk for one or more residents.

The bill should enable a resident to refuse a person designated as an essential caregiver by the resident's guardian or legally authorized representative if the resident did not agree with the designation. It also should allow a facility to remove the essential caregiver's designation if the caregiver became predatory.

OTHER  
CRITICS  
SAY:

CSSB 25, in combination with SJR 19 by Kolkhorst (Frank), should allow a long-term care facility resident or the resident's guardian or representative to designate more than one person at a time as an essential caregiver for in-person visitation. Limiting the essential caregiver designation to only one person could prevent other family members and friends from seeing a loved one before they passed away.

NOTES:

CSSB 25 is the enabling legislation for SJR 19 by Kolkhorst (Frank), which was placed on the House Constitutional Amendments Calendar for May 24.

The House companion bill, HB 892 by Frank, was considered by the House Human Services Committee in a public hearing on March 9 and left pending.

**SUBJECT:** Expanding eligibility for certain surviving spouse homestead exemptions

**COMMITTEE:** Ways and Means — favorable, without amendment

**VOTE:** 9 ayes — Meyer, Thierry, Button, Cole, Guerra, Murphy, Noble, Rodriguez, Shine

0 nays

2 absent — Martinez Fischer, Sanford

**SENATE VOTE:** On final passage, April 8 — 29-1 (Johnson)

**WITNESSES:** For — (*Registered, but did not testify*: Mitch Fuller, Department of Texas, Veterans of Foreign Wars; J.D. Hale, Texas Association of Builders)

Against — None

On — (*Registered, but did not testify*: Korry Castillo, Comptroller of Public Accounts)

**BACKGROUND:** Texas Constitution Art. 8, sec. 1-b(m) allows the Legislature by law to provide that the surviving spouse of a member of the U.S. armed services who was killed in action is entitled to an exemption from property taxes of all or part of the market value of the spouse's residence homestead if the spouse has not remarried.

Tax Code sec. 11.133 codifies the property tax exemption on the total appraised value of a surviving spouse's residence homestead.

**DIGEST:** SJR 35 would amend the Texas Constitution to expand eligibility for the residence homestead tax exemption provided to the surviving spouse of a member of the U.S. armed services. The spouse would be entitled to the exemption if the member was killed or fatally injured in the line of duty, rather than killed in action.

The constitutional amendment would take effect January 1, 2022, and apply only to a tax year beginning after that date.

The ballot proposal would be presented to voters at an election on November 2, 2021, and would read: "The constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed or fatally injured in the line of duty."

**SUPPORTERS  
SAY:**

SJR 35 and its enabling legislation, SB 611 by Campbell (Lopez), would correct an oversight in current law by providing the residence homestead tax exemption to all surviving spouses of members of the U.S. armed services killed in the line of duty. Currently, the exemption is provided to spouses of members killed in action, which does not include incidents such as accidental vehicle crashes and other non-hostile events or terrorism. This means that surviving spouses of members who died in accidents or events that were not combat-related are not eligible for the property tax exemption on the total value of their residence homestead for which other surviving spouses are eligible. By expanding the eligibility to include surviving spouses of members who were killed or fatally injured in the line of duty, rather than just those killed in action, the legislation would allow all surviving spouses to receive this exemption.

The bill and joint resolution would apply to fewer than 10 individuals per year according to federal data, so there would not be a large impact to taxing units. Those who have been killed in tragic accidents have given their lives for their country, and their sacrifice is equally deserving of the exemption as those who were killed in active combat. This measure would ensure they were treated the same.

**CRITICS  
SAY:**

SJR 35, in combination with SB 611, would expand a property tax exemption provided to one group of people, increasing the tax burden on other property owners. The Legislature should instead work to lower the tax burden on all Texans.

NOTES:

According to the Legislative Budget Board, any fiscal implication of the resolution would be attributable to the corresponding enabling legislation. The cost to the state for publication of the resolution would be \$178,333.

SB 611 by Campbell (Lopez), the enabling legislation for SJR 35, was passed on second reading by the House on May 20.