

SUBJECT: Increasing PUC membership, requiring state residency, revising eligibility

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 10 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Metcalf, Shaheen, Slawson

0 nays

2 absent — Lucio, Raymond

1 present not voting — Smithee

SENATE VOTE: On final passage, March 25 — 30-0

WITNESSES: For — (*Registered, but did not testify*: Jeffrey Clark, Advanced Power Alliance; Carrie Simmons, Conservative Texans for Energy Innovation; Cyrus Reed, Lone Star Chapter Sierra Club; Linda Durnin)

Against — None

On — Kenneth Flippin, US Green Building Council Texas Chapter; (*Registered, but did not testify*: Thomas Gleeson, Public Utility Commission of Texas)

BACKGROUND: Utilities Code ch. 12 governs the organization of the Public Utility Commission (PUC). The PUC is composed of three governor-appointed commissioners who serve staggered, six-year terms. To be eligible for appointment, a commissioner must:

- be a qualified voter;
- be a U.S. citizen;
- be a competent and experienced administrator;
- be well informed and qualified in the field of public utilities and utility regulation; and

- have at least five years of experience in the administration of business or government or as a practicing attorney or certified public accountant.

A person is not eligible for appointment if the person at any time during the two years preceding appointment:

- personally served as an officer, director, owner, employee, partner, or legal representative of a public utility regulated by the PUC or of an affiliate or direct competitor of a regulated public utility; or
- owned or controlled, directly or indirectly, more than a 10 percent interest in a regulated public utility or in an affiliate or direct competitor of a regulated public utility.

Other persons not eligible for appointment are certain registered lobbyists, employees of trade associations or their spouses, or persons serving, employed, or financially in certain positions that pose conflicts of interest.

DIGEST:

SB 2154 would increase the membership of the Public Utility Commission (PUC) from three to five governor-appointed commissioners.

To be eligible for appointment, a commissioner would have to be a Texas resident. The bill would expand eligibility to include a person who had at least five years of experience as a professional engineer.

Under the bill, only a minimum of two commissioners would have to be well informed and qualified in the field of public utilities and utility regulation.

The bill also would amend eligibility requirements so that a person would not be eligible for appointment as a commissioner if at any time during the previous year, rather than the previous two years, the person was affiliated with certain public utilities.

Under the bill, a member of the Legislature or a person who served as governor, lieutenant governor, comptroller, commissioner of the General

Land Office, or attorney general within one year preceding appointment would not be eligible for appointment as a PUC commissioner.

No later than 30 days after the bill's effective date, the governor would have to appoint a person to PUC to serve as the presiding officer.

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:**

SB 2154 would take the necessary steps to reform the governance of the Public Utility Commission (PUC) in the wake of Winter Storm Uri, which left millions of Texans without power in February. Following the storm, concerns were raised about PUC's actions, and after the resignation of all three PUC commissioners, there have been calls to reform the makeup of PUC and the requirements for appointment as a commissioner.

The bill would address those calls by increasing the number of PUC commissioners from three to five and revising the eligibility requirements for appointment as a commissioner, including by expanding eligibility to allow professional engineers to serve as commissioners. By requiring only two commissioners to meet the current standard of being well informed and qualified in the field of public utilities, the bill would guarantee that at least three of the five members were not from the public utility industry, leaving room for finance and legal experts. This change would ensure that more viewpoints were incorporated during decision-making processes.

Additionally, SB 2154 would create a system 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 PUC commissioners, the bill would ensure members had a personal stake in Texas' public utilities.

**CRITICS
SAY:**

SB 2154 should revise PUC to ensure it is more accountable to Texans by requiring some commissioners to represent consumers. This could be achieved by requiring commissioners to represent designated zones in the

ERCOT power region, by requiring the lieutenant governor and House speaker to have a role in commissioner selection to instill more legislative oversight, or by requiring at least one commissioner to be elected in the same manner as other state officers. The bill also could reduce the PUC membership from three commissioners to one to ensure better accountability to the public, the governor, and the Legislature.

NOTES:

According to the Legislative Budget Board, the bill would cost general revenue about \$2.2 million through fiscal 2023 for two commissioners' salaries, two advisers' salaries, two support staff's salaries, two new office suites, and other related operating expenses.