

Proposition 7

(S.J.R. 93, 88th Leg., R.S.)

The constitutional amendment providing for the creation of the Texas energy fund to support the construction, maintenance, modernization, and operation of electric generating facilities.

SUMMARY ANALYSIS

S.J.R. 93, 88th Legislature, Regular Session, 2023, proposes the addition of Section 49-q to Article III, Texas Constitution, to provide for the creation of the Texas energy fund to support the construction, maintenance, modernization, and operation of electric generating facilities. If this amendment is approved by the voters, the legislature has provided initial funding of \$5 billion and enacted enabling legislation to begin providing loans and grants from the fund.

BACKGROUND AND DETAILED ANALYSIS

The constitutional amendment proposed by S.J.R. 93, 88th Legislature, Regular Session, 2023, would create the Texas energy fund and authorize the Public Utility Commission of Texas to administer and use the fund as provided by general law, without further appropriation, to provide loans and grants to any entity to finance or incentivize the construction, maintenance, modernization, and operation of electric generating facilities, including associated infrastructure, necessary to ensure the reliability or adequacy of an electric power grid in Texas.

The proposed amendment would require the Public Utility Commission of Texas to allocate money from the fund for loans and grants for electric generating facilities that serve as backup power sources and for projects in each region of the state that is part of an electric power grid in proportion to that region's load share.

Enacted in 2023 by the 88th Legislature in the Regular Session, S.B. 2627 is the enabling legislation for S.J.R. 93. The bill takes effect only if S.J.R. 93 is approved by voters at an election to be held November 7, 2023. The bill addresses in more detail the projects for which the Public Utility Commission of Texas may provide loans and grants from the Texas energy fund.

The bill would authorize the Public Utility Commission of Texas to provide loans from the Texas energy fund to finance upgrades to existing dispatchable electric generating facilities in the ERCOT power region and for the construction of new dispatchable electric generating facilities in the ERCOT power region. The bill would require the Public Utility Commission of Texas to provide completion bonus grants from the Texas energy fund for the construction of dispatchable electric generating facilities in the ERCOT power region. The bill would allow the total amount of these loans and grants to equal not more than \$7.2 billion.

The bill would authorize the Public Utility Commission of Texas to provide up to \$1 billion in grants for transmission and distribution infrastructure and electric generating facilities in Texas outside the ERCOT power region.

The bill would authorize the Public Utility Commission of Texas to provide up to \$1.8 billion in grants or loans for the operation of stand-alone, behind-the-meter, multiday backup power sources in any part of Texas.

The 2023 General Appropriations Act (H.B. 1, 88th Legislature, Regular Session, 2023) provides \$5 billion for the implementation of S.B. 2627 in the 2024-2025 fiscal biennium. This funding is contingent on S.B. 2627 taking effect on voter approval of this proposed constitutional amendment.

SUMMARY OF COMMENTS

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

Comments by Supporters

- Additional state funding is needed to increase the reliability of the state's electric market, particularly with regard to dispatchable generation.
- Creating the Texas energy fund would enable the Public Utility Commission of Texas to provide loans and grants to finance or incentivize the construction, maintenance, modernization, and operation of electric generating facilities, including

associated infrastructure, necessary to ensure the reliability or adequacy of the state's electric power grid.

Comments by Opponents

- Providing funding to increase the reliability of the Texas grid would be more appropriate through the rate payer system as opposed to providing state subsidies funded by all taxpayers.

Text of S.J.R. 93

SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the creation of the Texas energy fund to support the construction, maintenance, modernization, and operation of electric generating facilities.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article III, Texas Constitution, is amended by adding Section 49-q to read as follows:

Sec. 49-q. (a) The Texas energy fund is created as a special fund in the state treasury outside the general revenue fund.

(b) As provided by general law, money in the Texas energy fund may be administered and used, without further appropriation, only by the Public Utility Commission of Texas or that commission's successor in function to provide loans and grants to any entity to finance or incentivize the construction, maintenance, modernization, and operation of electric generating facilities, including associated infrastructure, necessary to ensure the reliability or adequacy of an electric power grid in this state. The commission shall allocate money from the fund for loans and grants to eligible projects:

(1) for electric generating facilities that serve as backup power sources; and

(2) in each region of the state that is part of an electric power grid in proportion to that region's load share.

(c) The entity administering the Texas energy fund may establish separate accounts in the fund as necessary or convenient for the fund's administration.

(d) The Texas energy fund consists of:

(1) money credited, appropriated, or transferred to the fund by or as authorized by the legislature;

(2) revenue that the legislature dedicates for deposit to the credit of the fund;

(3) the returns received from the investment of the money in the fund; and

(4) gifts, grants, and donations contributed to the credit of the fund.

(e) The reasonable expenses of managing the Texas energy fund’s assets shall be paid from the fund.

(f) The legislature by a provision of a general appropriations act may provide for the transfer to the general revenue fund of money that is subject to this section.

(g) The legislature may appropriate general revenue for the purpose of depositing money to the credit of the Texas energy fund to be used for the purposes of that fund.

(h) For purposes of Section 22, Article VIII, of this constitution:

(1) money in the Texas energy fund is dedicated by this constitution;

and

(2) an appropriation of state tax revenues for the purpose of depositing money to the credit of the Texas energy fund is treated as if it were an appropriation of revenues dedicated by this constitution.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment providing for the creation of the Texas energy fund to support the construction, maintenance, modernization, and operation of electric generating facilities.”

Senate Author: Schwertner

House Sponsor: Hunter

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