

By: Goldman, Canales

H.B. No. 3244

Substitute the following for H.B. No. 3244:

By: Goldman

C.S.H.B. No. 3244

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the operation of certain infrastructure during a  
3 weather emergency; authorizing administrative penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 81.073(b), Natural Resources Code, as  
6 added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular  
7 Session, 2021, is amended to read as follows:

8 (b) The rules must:

9 (1) establish criteria for designating persons who own  
10 or operate a facility under the jurisdiction of the commission  
11 under Section 81.051(a) or engage in an activity under the  
12 jurisdiction of the commission under Section 81.051(a) who must  
13 provide critical customer and critical gas supply information, as  
14 defined by the commission, to the entities described by Section  
15 38.074(b)(1), Utilities Code; and

16 (2) consider essential operational elements when  
17 defining critical customer designations and critical gas supply  
18 information for the purposes of Subdivision (1), including natural  
19 gas production, processing, and transportation, related produced  
20 water handling and disposal facilities, and the delivery of natural  
21 gas to generators of electric energy[~~, and~~

22 [~~(3) require that only facilities and entities that~~  
23 ~~are prepared to operate during a weather emergency may be~~  
24 ~~designated as a critical customer under this section].~~

1 SECTION 2. Sections 86.044(d), (f), and (g), Natural  
2 Resources Code, are amended to read as follows:

3 (d) The commission shall:

4 (1) inspect gas supply chain facilities for compliance  
5 with rules adopted under Subsection (c); and

6 (2) provide the owner of a facility described by  
7 Subdivision (1) with a reasonable period of time in which to remedy  
8 any violation the commission discovers in an inspection~~;~~ and

9 ~~[(3) report to the attorney general any violation that~~  
10 ~~is not remedied in a reasonable period of time].~~

11 (f) The commission by rule shall require an operator of a  
12 gas supply chain facility that experiences repeated  
13 weather-related or major weather-related forced interruptions of  
14 production to:

15 (1) ~~[contract with a person who is not an employee of~~  
16 ~~the operator to]~~ assess the operator's weatherization plans,  
17 procedures, and operations and propose remedial measures; and

18 (2) submit the assessment and remedial measures to the  
19 commission.

20 (g) The commission may require an operator of a gas supply  
21 chain facility to implement remedial measures ~~[appropriate~~  
22 ~~recommendations included in an assessment]~~ submitted to the  
23 commission under Subsection (f) if the commission determines the  
24 remedial measures are necessary for compliance with rules adopted  
25 under Subsection (c).

26 SECTION 3. Section 86.223, Natural Resources Code, is  
27 amended to read as follows:

1           Sec. 86.223. SUIT FOR PENALTY. The penalty authorized by  
2 Section 86.222 may be recovered with the cost of suit by the State  
3 of Texas through the attorney general or the county or district  
4 attorney when joined by the attorney general in a civil action  
5 instituted in Travis County, in the county in which the violation  
6 occurred, or in the county of residence of the defendant.

7           SECTION 4. Subchapter G, Chapter 86, Natural Resources  
8 Code, is amended by adding Section 86.2235, and a heading is added  
9 to that section to read as follows:

10           Sec. 86.2235. WEATHER EMERGENCY PREPAREDNESS PENALTIES.

11           SECTION 5. Sections 86.222(a-1), (c), and (d), Natural  
12 Resources Code, are transferred to Section 86.2235, Natural  
13 Resources Code, as added by this Act, redesignated as Sections  
14 86.2235(a), (b), (c), and (d), Natural Resources Code, and amended  
15 to read as follows:

16           (a) Section 86.222 does not apply to a violation  
17 [(a-1) Notwithstanding Subsection (a), a person who violates a  
18 provision] of a rule adopted under Section 86.044. If the  
19 commission determines that a person has violated a rule adopted  
20 under Section 86.044, the commission shall assess a penalty against  
21 the person in the manner provided by Sections 81.0532-81.0534 for  
22 assessing an administrative penalty under Section 81.0531.

23           (b) The penalty may not exceed [is liable for a penalty of  
24 not more than] \$1,000,000 for each offense. Each day a violation  
25 occurs constitutes a separate offense.

26           (c) The commission by rule shall establish a classification  
27 system to be used [by a court under this subchapter] for violations

1 of rules adopted under Section 86.044 that includes a range of  
2 penalties that may be recovered for each class of violation based  
3 on:

4 (1) the seriousness of the violation, including:

5 (A) the nature, circumstances, extent, and  
6 gravity of a prohibited act; and

7 (B) the hazard or potential hazard created to the  
8 health, safety, or economic welfare of the public;

9 (2) the history of previous violations;

10 (3) the amount necessary to deter future violations;

11 (4) efforts to correct the violation; and

12 (5) any other matter that justice may require.

13 (d) The classification system established under Subsection  
14 (c) shall provide that a penalty in an amount that exceeds \$5,000  
15 may be recovered only if the violation is included in the highest  
16 class of violations in the classification system.

17 SECTION 6. Section 86.2235, Natural Resources Code, as  
18 added by this Act, is amended by adding Subsection (e) to read as  
19 follows:

20 (e) Notwithstanding Subsection (a), the commission may not  
21 assess a penalty against an operator of a facility for a violation  
22 of a rule adopted under Section 86.044 if the commission determines  
23 that the operator made reasonably prudent efforts to comply with  
24 the rule, regardless of whether the facility failed to operate  
25 during a weather emergency.

26 SECTION 7. Section 38.074, Utilities Code, is amended by  
27 adding Subsection (c) to read as follows:

1        (c) The commission shall collaborate with the Railroad  
2 Commission of Texas to adopt rules to allow a gas supply chain  
3 facility, as defined by Section 86.044, Natural Resources Code,  
4 that is not included on the electricity supply chain map created  
5 under Section 38.203 to serve as a load resource or an emergency  
6 response resource.

7        SECTION 8. Section 38.202(f), Utilities Code, is amended to  
8 read as follows:

9        (f) Information written, produced, collected, assembled, or  
10 maintained under law or in connection with the transaction of  
11 official business by the committee or an officer or employee of the  
12 committee is subject to Section 552.008, Government Code, including  
13 information that is confidential under Section 418.181, Government  
14 Code. This subsection does not apply to the physical locations of  
15 critical facilities, maps created under this subchapter, or  
16 proprietary information created or gathered during the mapping  
17 process.

18        SECTION 9. Section 38.203(d), Utilities Code, is amended to  
19 read as follows:

20        (d) Except as provided by Section 38.202(f):

21                (1) the [The] information maintained in the database  
22 is confidential under Section 418.181, Government Code, and not  
23 subject to disclosure under Chapter 552, Government Code; and

24                (2) portions of documents in the possession of the  
25 committee that are confidential under Section 418.181, Government  
26 Code, are not subject to disclosure under Chapter 552, Government  
27 Code.

1 SECTION 10. Subchapter F, Chapter 38, Utilities Code, is  
2 amended by adding Section 38.205 to read as follows:

3 Sec. 38.205. NOTICE AND HEARING BEFORE ADDING NATURAL GAS  
4 FACILITY TO MAP. (a) The committee may include on the electricity  
5 supply chain map a gas supply chain facility, as defined by Section  
6 86.044, Natural Resources Code, or a gas pipeline facility  
7 described by Section 121.2015, only after the Railroad Commission  
8 of Texas provides the operator of the facility with notice and an  
9 opportunity for a hearing in the manner provided by Chapter 2001,  
10 Government Code.

11 (b) If an operator requests a hearing under Subsection (a),  
12 the Railroad Commission of Texas shall hold the hearing and issue a  
13 decision in writing in accordance with Chapter 2001, Government  
14 Code, as to whether the facility may be included on the electricity  
15 supply chain map based on applicable rules and provisions of this  
16 code and the Natural Resources Code.

17 (c) The committee shall comply with the decision issued by  
18 the Railroad Commission of Texas.

19 (d) Except as otherwise provided by this subchapter, the  
20 information, data, and documents collected during a hearing  
21 convened under this section that are confidential under Section  
22 418.181, Government Code, are not subject to disclosure under  
23 Chapter 552, Government Code.

24 (e) Portions of a decision or order issued by the Railroad  
25 Commission of Texas under this section that are confidential under  
26 Section 418.181, Government Code, are not subject to disclosure  
27 under Chapter 552, Government Code.

1 SECTION 11. The following provisions are repealed:

2 (1) Section 86.044(h), Natural Resources Code; and

3 (2) Section 186.008, Utilities Code.

4 SECTION 12. (a) Not later than December 1, 2023, the Public  
5 Utility Commission of Texas shall adopt rules necessary to  
6 implement Section 38.074(c), Utilities Code, as added by this Act.

7 (b) Section 38.205, Utilities Code, as added by this Act,  
8 applies only to the addition of a gas supply chain facility or gas  
9 pipeline facility to the electricity supply chain map under  
10 Subchapter F, Chapter 38, Utilities Code, on or after the effective  
11 date of this Act.

12 SECTION 13. This Act takes effect September 1, 2023.