

BILL ANALYSIS

C.S.H.B. 1710
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Defense & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

One of the devastating effects of Hurricane Ike was the loss of power experienced by nursing homes and other health care facilities that lacked a source of back-up electrical power. One week following Ike, residents in 58 Texas nursing homes and 71 assisted living centers over eight different counties were still waiting for electrical services to be restored. Many of these facilities moved their elderly, frail, and disabled residents that were dependent upon medical machinery to nearby hospitals that had power. As a result, essential health care resources that should have been directed to the critically ill and patients with emergency needs were strained.

It is estimated that more than 10,000 residents within Harris County currently reside in nursing homes. Given the vast number of residents in nursing homes and assisted living facilities in areas near the coast, it is imperative the state ensure that special-needs populations in nursing homes and assisted living facilities be provided living conditions that are safe.

C.S.H.B. 1710 requires the Health and Human Services Commission to require specified healthcare facilities in coastal areas to submit to it an emergency preparedness plan that ensures that in the event of a local power outage, the facility maintains the ability to provide emergency electrical power and to meet the basic needs of all persons receiving services at the facility.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 1710 amends the Government Code to require the executive commissioner of the Health and Human Services Commission (HHSC) by rule to require a facility located in an area prone to severe weather that is licensed by a health and human services agency and that serves elderly persons, person who are ill, and persons with special needs to annually adopt and submit to HHSC for its approval an emergency preparedness plan. The bill requires the submitted emergency preparedness plan to ensure that, in the event of a local power outage, the facility maintains the ability to provide emergency electrical power and to meet the basic needs of all persons receiving services at the facility. The bill requires HHSC to review and approve or disapprove an emergency preparedness plan and to issue a notification of approval or a notification of the reasons for disapproval of the plan.

C.S.H.B. 1710 requires an emergency preparedness plan to demonstrate that the facility possesses on the facility's premises an electrical power generator or other emergency power source. The bill requires a facility to include with the plan a proposed schedule for the regular servicing, testing, and operation of the electrical power generator or other emergency power source that complies with HHSC rules. The bill requires a facility to maintain a log of regular servicing, testing, and operation of the electrical power generator or other emergency power source and to submit a copy of the log to HHSC with its annual emergency preparedness plan.

The bill authorizes HHSC to inspect the log at any time before the facility submits the log to it. The bill requires the executive commissioner by rule to prescribe standards relating to the servicing, testing, and operation of an electrical power generator or other emergency power source used in the implementation of an emergency preparedness plan submitted to HHSC.

C.S.H.B. 1710 requires the executive commissioner to adopt these rules not later than December 1, 2009. The bill requires a facility required to adopt and submit an emergency preparedness plan to comply with these rules not later than January 31, 2010. The bill defines "area prone to severe weather" as each county in Texas that is located wholly or partly within 100 miles of the Gulf of Mexico.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1710 differs from the original by defining an "area prone to severe weather" as each county in Texas that is located wholly or partly within 100 miles of the Gulf of Mexico, whereas the original requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules defining such areas as each coastal county and any other county in which a state of disaster has been declared by an executive order or proclamation issued on or after January 1, 2003, and to update those rules as necessary.

C.S.H.B. 1710 differs from the original by requiring the executive commissioner by rule to require certain facilities to annually adopt and submit to the HHSC an emergency preparedness plan, and sets forth requirements for such a plan, including demonstration that the facility possesses on the premises an emergency power generator or other power source, whereas the original authorizes the executive commissioner to require such facilities to have an emergency power generator. The substitute removes provisions in the original requiring minimum standards adopted by the executive commissioner for institutions, assisted living facilities, and special care facilities located in an area prone to severe weather to provide emergency electrical power with an emergency generator located on the premises. The substitute adds provisions not in the original requiring a facility to include in its emergency preparedness plan a schedule for servicing, testing, and operation of the emergency power source, to maintain a related log, and to submit the log to HHSC with the plan; and requiring the executive director to prescribe servicing, testing, and operation standards.

C.S.H.B. 1710 differs from the original by requiring the executive commissioner to adopt rules by December 1, 2009, and requiring facilities to comply with these rules by January 31, 2010, whereas the original requires the executive commissioner to adopt rules and standards by January 1, 2010. The substitute differs from the original by providing for immediate effect contingent on the bill's receiving the necessary two-thirds vote in each house or a September 1, 2009, effective date, whereas the original provides for a September 1, 2009, effective date.