

By: Turner of Harris

H.B. No. 632

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the requirement that retail water and utility services
3 maintain auxiliary generators for use during a local power outage;
4 providing an administrative penalty.

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

6 SECTION 1. Subchapter C, Chapter 341, Health and Safety
7 Code, is amended by adding Section 341.0359 to read as follows:

8 Sec. 341.0359. CONTINUATION OF SERVICE DURING LOCAL POWER
9 OUTAGE. (a) A retail public utility, as defined by Section 13.002,
10 Water Code, shall incorporate and maintain auxiliary power
11 generators capable of ensuring that, in the event of a local power
12 outage, the retail public utility maintains the ability to provide:

13 (1) water to the local distribution system with at
14 least the minimum water pressure required under commission rules;
15 and

16 (2) sewer services to all existing customers.

17 (b) The commission by rule shall:

18 (1) prescribe standards relating to the auxiliary
19 power generators; and

20 (2) create and implement an inspection schedule that
21 ensures the inspection of each retail public utility for compliance
22 with this section at least once each 12-month period.

23 (c) The commission may impose an administrative penalty on a
24 person licensed under this chapter who violates this section or a

1 rule or order adopted under this section. The amount of the penalty
2 may not exceed \$1,000 for each day a violation continues or occurs,
3 with a maximum total penalty for a continuing violation of not more
4 than \$10,000. The amount of the penalty shall be based on:

5 (1) the seriousness of the violation, including the
6 nature, circumstances, extent, and gravity of the violation;

7 (2) the number of violations and the person's history
8 of previous violations;

9 (3) the amount necessary to deter a future violation;

10 (4) the person's efforts to correct the violation; and

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

12 (d) The enforcement of an administrative penalty ordered
13 under this section may be stayed during the time the order is under
14 judicial review if the person pays the penalty to the clerk of the
15 court or files a supersedeas bond with the court in the amount of
16 the penalty. A person who cannot afford to pay the penalty or file
17 the bond may stay the enforcement by filing an affidavit in the
18 manner required by the Texas Rules of Civil Procedure for a party
19 who cannot afford to file security for costs, subject to the right
20 of the commission to contest the affidavit as provided by those
21 rules.

22 (e) The attorney general may sue to collect an
23 administrative penalty assessed under this section.

24 (f) A proceeding to impose an administrative penalty is a
25 contested case under Chapter 2001, Government Code.

26 (g) In addition to assessing an administrative penalty for a
27 violation of this section, the commission may revoke a retail

1 public utility's license to operate.

2 SECTION 2. Not later than December 1, 2009, the Texas
3 Commission on Environmental Quality shall adopt rules as required
4 by Section 341.0359, Health and Safety Code, as added by this Act.

5 SECTION 3. A retail public utility required to incorporate
6 and maintain an auxiliary generator under Section 341.0359, Health
7 and Safety Code, as added by this Act, shall comply with Texas
8 Commission on Environmental Quality rules adopted under that
9 section not later than January 31, 2010.

10 SECTION 4. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2009.