

By: Patrick, Nichols

S.B. No. 361

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the requirement that certain water service providers  
3 ensure emergency operations during an extended power outage.

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

5 SECTION 1. Subchapter E, Chapter 13, Water Code, is amended  
6 by adding Sections 13.1395 and 13.1396 to read as follows:

7 Sec. 13.1395. STANDARDS OF EMERGENCY OPERATIONS. (a) In  
8 this section:

9 (1) "Affected utility" means a retail public utility,  
10 exempt utility, or provider or conveyor of potable or raw water  
11 service that furnishes water service to more than one customer in a  
12 county with a population of 3.3 million or more.

13 (2) "Emergency operations" means the operation of a  
14 water system during an extended power outage at a minimum water  
15 pressure of 35 pounds per square inch.

16 (3) "Extended power outage" means a power outage  
17 lasting for more than 24 hours.

18 (b) An affected utility shall:

19 (1) ensure the emergency operation of its water system  
20 during an extended power outage as soon as safe and practicable  
21 following the occurrence of a natural disaster; and

22 (2) adopt and submit to the commission for its  
23 approval an emergency preparedness plan that demonstrates the  
24 utility's ability to provide emergency operations.

1       (c) The commission shall review and approve or disapprove an  
2 emergency preparedness plan submitted under Subsection (b) and  
3 issue a notification of approval or a notification of the reasons  
4 for disapproval of the plan. In accordance with commission rules,  
5 an emergency preparedness plan shall provide for one of the  
6 following:

7           (1) the maintenance of automatically starting  
8 auxiliary generators;

9           (2) the sharing of auxiliary generator capacity with  
10 one or more affected utilities;

11           (3) the negotiation of leasing and contracting  
12 agreements, including emergency mutual aid agreements with other  
13 retail public utilities, exempt utilities, or providers or  
14 conveyors of potable or raw water service, if the agreements  
15 provide for coordination with the division of emergency management  
16 in the governor's office;

17           (4) the use of portable generators capable of serving  
18 multiple facilities equipped with quick-connect systems;

19           (5) the use of on-site electrical generation or  
20 distributed generation facilities;

21           (6) hardening the electric transmission and  
22 distribution system serving the water system; or

23           (7) for existing facilities, the maintenance of direct  
24 engine or right angle drives.

25       (d) Not later than June 1, 2011, each affected utility that  
26 supplies, provides, or conveys surface water shall include in its  
27 emergency preparedness plan under Subsection (b) provisions for the

1 actual installation and maintenance of automatically starting  
2 auxiliary generators or distributive generation facilities for  
3 each raw water intake pump station, water treatment plant, pump  
4 station, and pressure facility necessary to provide water to its  
5 wholesale customers.

6 (e) Each affected utility required to submit an emergency  
7 preparedness plan under this section shall submit its plan to the  
8 commission not later than June 1, 2011.

9 (f) Not later than March 1, 2010, the commission shall adopt  
10 rules to implement this section as an alternative to any rule  
11 requiring elevated storage.

12 (g) The commission shall provide an affected utility with  
13 access to the commission's financial, managerial, and technical  
14 contractors to assist the utility in complying with the applicable  
15 emergency preparedness plan submission deadline.

16 (h) The commission by rule shall create an emergency  
17 preparedness plan template for use by an affected utility when  
18 submitting a plan under this section. The emergency preparedness  
19 plan template shall contain:

20 (1) a list and explanation of the preparations an  
21 affected utility may make under Subsection (c) for the commission  
22 to approve the utility's emergency preparedness plan; and

23 (2) a list of all commission rules and standards  
24 pertaining to emergency preparedness plans.

25 (i) An emergency generator used as part of an approved  
26 emergency preparedness plan under Subsection (c) must be operated  
27 and maintained according to the manufacturer's specifications.

1       (j) An affected utility shall implement its emergency  
2 preparedness plan as approved by the commission not later than June  
3 1, 2011. The commission shall inspect each utility to ensure that  
4 the utility complies with the approved plan.

5       (k) The commission may not grant a waiver of the  
6 requirements of this section to any affected utility.

7       (l) An affected utility may adopt and enforce limitations on  
8 water use while the utility is providing emergency operations.

9       (m) Except as specifically required by this section,  
10 information provided by an affected utility under this section is  
11 confidential and is not subject to disclosure under Chapter 552,  
12 Government Code.

13       Sec. 13.1396. COORDINATION OF EMERGENCY OPERATIONS.

14       (a) In this section:

15               (1) "Affected utility" has the meaning assigned by  
16 Section 13.1395.

17               (2) "County judge" means a county judge or the person  
18 designated by a county judge.

19               (3) "Electric utility" means the electric  
20 transmission and distribution utility providing electric service  
21 to the water and wastewater facilities of an affected utility.

22       (b) An affected utility shall submit to the county judge,  
23 the office of emergency management of each county in which the  
24 utility has more than one customer, the Public Utility Commission  
25 of Texas, and the office of emergency management of the governor, a  
26 copy of:

27               (1) the affected utility's emergency preparedness plan

1 approved under Section 13.1395; and

2 (2) the commission's notification to the affected  
3 utility that the plan is approved.

4 (c) Not later than December 31, 2009, the affected utility  
5 shall submit to the county judge and the office of emergency  
6 management of each county in which the utility has water and  
7 wastewater facilities that qualify for critical load status under  
8 rules adopted by the Public Utility Commission of Texas, and to the  
9 Public Utility Commission of Texas and the division of emergency  
10 management of the governor:

11 (1) information identifying the location and  
12 providing a general description of all water and wastewater  
13 facilities that qualify for critical load status; and

14 (2) emergency contact information for the affected  
15 utility, including:

16 (A) the person who will serve as a point of  
17 contact and the person's telephone number;

18 (B) the person who will serve as an alternative  
19 point of contact and the person's telephone number; and

20 (C) the affected utility's mailing address.

21 (d) An affected utility shall immediately update the  
22 information provided under Subsection (c) as changes to the  
23 information occur.

24 (e) Not later than March 1 of each year, the county judge of  
25 each county that receives the information required by Subsections  
26 (c) and (d) shall:

27 (1) submit the information for each affected utility

1 to relevant electric utilities; and

2 (2) in cooperation with the affected utility, submit  
3 for each affected utility any forms reasonably required by an  
4 electric utility for determining critical load status, including a  
5 critical care eligibility determination form or similar form.

6 (f) Not later than June 1 of each year, an electric utility  
7 that has received information relating to an affected utility under  
8 Subsection (e) shall determine whether the facilities of the  
9 affected utility qualify for critical load status under rules  
10 adopted by the Public Utility Commission of Texas.

11 (g) If an electric utility determines that an affected  
12 utility's facilities do not qualify for critical load status, the  
13 electric utility, not later than the 30th day after the date the  
14 electric utility receives the information required by Subsections  
15 (c) and (d), shall provide a detailed explanation of the electric  
16 utility's determination to each county judge that submitted the  
17 information.

18 (h) Except as specifically required by this section,  
19 information received under this section is confidential and is not  
20 subject to disclosure under Chapter 552, Government Code.

21 SECTION 2. Not later than March 1, 2010, the Texas  
22 Commission on Environmental Quality shall adopt standards as  
23 required by Section 13.1395, Water Code, as added by this Act.

24 SECTION 3. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2009.