

By: Patrick, Dan

S.B. No. 361

A BILL TO BE ENTITLED

AN ACT

relating to the requirement that water and sewer service providers ensure operations during an extended power outage.

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

SECTION 1. Section 13.139, Water Code, is amended by adding Subsections (e) through (m) to read as follows:

(e) A retail public utility, exempt utility, or provider of wholesale sewer service or potable water service that furnishes water or sewer service to more than one customer shall:

(1) ensure the operation of its water and sewer systems during an extended power outage; and

(2) adopt and submit to the commission for its approval an emergency preparedness plan that demonstrates the entity's ability to continue to provide water and sewer services during an extended power outage.

(f) The commission shall review and approve or disapprove an emergency preparedness plan submitted under Subsection (e) and issue a notification of approval or a notification of the reasons for disapproval of the plan. An emergency preparedness plan may provide for:

(1) the maintenance of automatically starting auxiliary generators for that purpose;

(2) the sharing of auxiliary generator capacity with one or more retail public utilities, exempt utilities, or providers

1 of wholesale sewer service or potable water service in accordance
2 with commission rules that prescribe the circumstances under which
3 that capacity may be shared;

4 (3) the negotiation of leasing and contracting
5 agreements that ensure each entity's ability to meet minimum
6 commission standards regarding water pressure and sewer service;

7 (4) the use of portable generators capable of serving
8 multiple facilities equipped with quick-connect systems; or

9 (5) the use of lift station direct bypass systems.

10 (g) Each retail public utility, exempt utility, or provider
11 of wholesale sewer service or potable water service required to
12 submit an emergency preparedness plan under this section shall
13 submit its plan to the commission by a date determined according to
14 the following scheduled phases:

15 (1) for phase 1, an entity located less than 75 miles
16 from the coast shall submit an emergency preparedness plan before
17 September 1, 2011;

18 (2) for phase 2, an entity located at least 75 and less
19 than 150 miles from the coast shall submit an emergency
20 preparedness plan before September 1, 2013;

21 (3) for phase 3, an entity located at least 150 and
22 less than 250 miles from the coast shall submit an emergency
23 preparedness plan before March 1, 2015;

24 (4) for phase 4, an entity located at least 250 and
25 less than 350 miles from the coast shall submit an emergency
26 preparedness plan before September 1, 2016; and

27 (5) for phase 5, an entity located 350 or more miles

1 from the coast shall submit an emergency preparedness plan before
2 March 1, 2019.

3 (h) At the beginning of each phase specified by Subsection
4 (g), the commission shall, for a period to be determined by the
5 commission, provide an affected retail public utility, exempt
6 utility, or provider of wholesale sewer service or potable water
7 service with access to the commission's financial, managerial, and
8 technical contractors to assist the entity in complying with the
9 applicable emergency preparedness plan submission deadline. If the
10 commission determines that an entity is capable of submitting an
11 emergency preparedness plan at a time earlier than the entity's
12 applicable phase deadline, the commission may require the entity to
13 submit its emergency preparedness plan at an earlier date.

14 (i) The commission by rule shall create an emergency
15 preparedness plan template for use by a retail public utility,
16 exempt utility, or provider of wholesale sewer service or potable
17 water service when submitting a plan under this section. The
18 emergency preparedness plan template shall contain:

19 (1) a list and explanation of the preparations an
20 entity may make under Subsection (f) for the commission to approve
21 the entity's emergency preparedness plan; and

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

24 (j) An emergency generator used as part of an approved
25 emergency preparedness plan under Subsection (f) must:

26 (1) comply with a design submitted and sealed by a
27 registered professional engineer and approved by the commission;

1 and

2 (2) be operated for at least six hours every three
3 months for maintenance purposes.

4 (k) A retail public utility, exempt utility, or provider of
5 wholesale sewer service or potable water service shall implement
6 its emergency preparedness plan as approved by the commission. The
7 commission shall inspect each entity to ensure that the entity
8 complies with the approved plan.

9 (1) A retail public utility, exempt utility, or provider of
10 wholesale sewer service or potable water service shall submit to
11 the county judge and the office of emergency management of each
12 county in which the entity has more than one customer a copy of:

13 (1) the emergency preparedness plan approved under
14 Subsection (f); and

15 (2) the commission's notification that the plan is
16 approved.

17 (m) The commission may not grant a waiver of the
18 requirements of Subsections (e) and (k) to any retail public
19 utility, exempt utility, or provider of wholesale sewer service or
20 potable water service that provides water or sewer service to more
21 than one customer.

22 SECTION 2. Not later than December 1, 2009, the Texas
23 Commission on Environmental Quality shall adopt standards as
24 required by Sections 13.139(e) through (m), Water Code, as added by
25 this Act.

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

S.B. No. 361

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.