

BILL ANALYSIS

C.S.S.B. 497
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Defense & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Observers note that certain provisions of law affecting the operation of utility facilities do not address the construction or expansion of a wind-powered electric generation facility located near a federally owned or operated radar installation or military installation. C.S.S.B. 497 seeks to add certain notice requirements for a proposed wind-powered project located within a certain distance of such an installation.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 1 of this bill.

ANALYSIS

C.S.S.B. 497 amends the Utilities Code to authorize a federally owned or operated radar installation or military installation to request that the Public Utility Commission of Texas (PUC) notify the installation of a planned construction or expansion of a wind-powered electric generation facility if the construction or expansion includes a meteorological tower or a structure that will extend 200 feet or higher above ground level and any part of the construction or expansion will occur within 25 miles of the boundaries of the installation. The bill requires the PUC to create and maintain a list of federally owned or operated radar installations and military installations that have requested notification of such a construction or expansion from the PUC and requires the PUC to publish the required notification list on its Internet website and provide a copy of the list to each person who requests a copy. The bill authorizes the PUC to establish procedures to enable federally owned or operated radar installations and military installations to request notification and to be included on the required notification list, including procedures relating to the information an installation must provide to the PUC.

C.S.S.B. 497 requires a person who intends to begin an applicable construction or expansion project to provide written notice to the PUC of the planned construction or expansion not later than the 120th day before the date the construction or expansion begins. The bill requires the notice to include the name of the person planning the construction or expansion; the location of the planned construction or expansion; a detailed description of any construction or expansion that will extend 200 feet or higher above ground level, including the final proposed height of that construction or expansion; and the name and location of each federally owned or operated radar installation or military installation included on the notification list described by the bill's provisions and whose boundaries are within 25 miles of any part of the planned construction or expansion. The bill authorizes the PUC to charge a fee in an amount provided by commission rule to a person who provides written notice of a construction or expansion project to the PUC under the bill's provisions. The bill prohibits the amount of the fee from exceeding an amount reasonably necessary to recover the cost of administering the bill's provisions. The bill authorizes the PUC to establish an expedited process to allow a person who provides written notice to the PUC of a construction or expansion project to alter the notice to reflect a change in the information required to be included in the notice.

C.S.S.B. 497 requires the PUC, not later than the 25th day after the date the PUC receives notice of a proposed construction or expansion project, to provide a copy of the notice to specified entities.

C.S.S.B. 497 requires the PUC to encourage the use of electronic submission through the Internet, to the extent practicable, for submitting the notice of an applicable construction or expansion and authorizes the PUC to adjust fees assessed under the bill's provisions as necessary to encourage electronic submission. The bill requires an electronic report to be submitted in a format prescribed by the PUC. The bill authorizes the PUC to transmit electronically the notice required to be provided by the PUC after receiving notice of a proposed construction or expansion project.

C.S.S.B. 497 prohibits a person from beginning construction or expansion of an applicable wind-powered electric generation facility until the person files with the PUC a copy of a Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration under federal law for the proposed construction or expansion and specifies that the requirement does not apply to the emergency construction or expansion of an applicable wind-powered electric generation facility that is prompted by an emergency involving essential public services, public health, or public safety. The bill requires a person who begins emergency construction or expansion to file the copy of the determination in a manner determined by the PUC.

C.S.S.B. 497 authorizes the PUC to implement penalties and other enforcement actions under provisions of law relating to judicial review, enforcement, and penalties applicable to all utilities against a person who does not comply with the bill's provisions relating to a Federal Aviation Administration determination or a rule or order adopted under such provisions. The bill authorizes the PUC to adopt rules and conduct proceedings necessary to administer and enforce the bill's provisions relating to a Federal Aviation Administration determination.

C.S.S.B. 497 requires the PUC to consult with the office of the governor, the Texas Military Preparedness Commission, the office of the comptroller of public accounts, the State Energy Conservation Office, and the General Land Office in developing and amending procedures to implement and administer the bill's provisions.

C.S.S.B. 497 authorizes the PUC, for an area in the Electric Reliability Council of Texas power region, to delegate a duty assigned to the PUC under the bill's provisions to an independent organization certified by the PUC to perform certain essential functions relating to the market structure of the electric utility industry. The bill authorizes the PUC, for an area in Texas outside the Electric Reliability Council of Texas power region, to delegate a duty assigned to the PUC under the bill's provisions to an appropriate electric utility that provides electric service to a wind-powered electric generation facility or to the area in which construction of a wind-powered electric generation facility is planned.

C.S.S.B. 497 requires the PUC, as soon as practicable after the bill's effective date and not later than January 1, 2012, to adopt procedures necessary to implement the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 497 contains a provision not included in the original authorizing the Public Utility Commission of Texas (PUC) to establish an expedited process to allow a person who provides written notice to the PUC of certain construction or expansion of a wind-powered electric generation facility to alter the notice to reflect a change in the information required to be

included in the notice.

C.S.S.B. 497 differs from the original by requiring a person who begins emergency construction or expansion of a wind-powered electric generation facility to file the copy of a Determination of No Hazard to Air Navigation in a manner determined by the PUC, whereas the original requires the filing of a determination not later than the fifth day after the date the person begins the construction or expansion.

C.S.S.B. 497 differs from the original by requiring the PUC, as soon as practicable after the effective date and not later than January 1, 2012, to adopt procedures necessary to implement the bill's provisions, whereas the original requires the PUC, not later than January 1, 2012, to adopt such procedures.

C.S.S.B. 497 differs from the original in nonsubstantive and conforming ways.