

BILL ANALYSIS

C.S.H.B. 3557
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Critical infrastructure facilities are used, among other things, for electrical power generation, water treatment, oil and natural gas production, and telecommunication service. There are calls to protect these facilities and private property owners by criminally prosecuting a person who damages or intends to damage these facilities and by imposing civil liability for such conduct. C.S.H.B. 3557 seeks to accomplish these objectives by creating criminal offenses for damage to or intent to damage a critical infrastructure facility and by creating related civil and criminal liability for engaging in such conduct.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3557 amends the Government Code to create the second degree felony offense of damage to a critical infrastructure facility for a person who, without the effective consent of the owner, intentionally or knowingly damages, destroys, vandalizes, defaces, or tampers with a critical infrastructure facility or impedes, inhibits, or otherwise interferes with the operation of a critical infrastructure facility. The bill creates the state jail felony offense of intent to damage a critical infrastructure facility for a person who, without the effective consent of the owner, enters or remains on or in a critical infrastructure facility with the intent to commit such conduct. If conduct that constitutes an applicable offense under the bill's provisions also constitutes an offense under another law, the actor may be prosecuted under the bill's applicable provisions, the other law, or both the other law and the bill's applicable provisions.

C.S.H.B. 3557 requires a court to sentence a corporation or association adjudged guilty of either such offense under the bill's provisions to pay a fine of \$1 million. The bill authorizes the court, if a defendant is convicted of either such offense and the offense results in damage to or destruction of property, to order the defendant to make restitution to the owner of the damaged or destroyed property or the owner's designee in an amount equal to the value of the property on the date of the damage or destruction.

C.S.H.B. 3557 makes a defendant who engages in conduct constituting either such offense civilly liable to the property owner for damages arising from that conduct. The bill establishes that it is not a defense to liability that a defendant has been acquitted or has not been prosecuted

or convicted of either such offense or has been convicted of a different offense or of a different type or class of offense for the conduct that is alleged to give rise to liability.

C.S.H.B. 3557 makes an organization that compensates a person for engaging in conduct constituting either such offense occurring on the premises of a critical infrastructure facility vicariously liable to the property owner for damages arising from the conduct, regardless of the relationship between the organization and the person.

C.S.H.B. 3557 requires that a claimant who prevails in a suit relating to civil liability under the bill's provisions be awarded actual damages, court costs, and reasonable attorney's fees. The bill establishes that the claimant, in addition to such an award, may recover exemplary damages. The bill makes the cause of action created by the bill's civil penalty provisions cumulative of any other remedy provided by common law or statute. The bill makes statutory provisions relating to actions involving the exercise of certain constitutional rights and to certain limitations on the amount of recovery inapplicable to an action brought under the bill's provisions. The bill provides for the definition of "critical infrastructure facility" by reference and specifies that the definition also includes a facility that is under construction and all of the equipment and appurtenances used during that construction.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3557 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions creating a criminal offense for a person who damages a critical infrastructure facility and a criminal offense for a person who intends to damage a critical infrastructure facility. The substitute includes fines for a corporation or association adjudged guilty of such an offense and provides for restitution to be made to an applicable property owner by a defendant convicted of such an offense.

The substitute does not include provisions conditioning civil liability for damage to a critical infrastructure facility on conduct constituting Class A misdemeanor criminal trespass applicable to an offense committed on or in such a facility but includes provisions conditioning such civil liability on conduct constituting the criminal offenses.

The substitute does not include a provision including as actual damages certain damages for mental anguish.

The substitute expands the definition of "critical infrastructure facility" by referencing a Government Code provision instead of a Penal Code provision.

The substitute includes a provision making statutory provisions relating to certain limitations on the amount of recovery inapplicable to an action brought under the bill's provisions.

The substitute changes the bill's effective date.