

BILL ANALYSIS

C.S.H.B. 3244
By: Goldman
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During the 87th Regular Session, the legislature passed S.B. 3 to improve the reliability of the state's electric grid. Among other important things, the legislation directed the Railroad Commission of Texas (RRC) to adopt rules designating certain oil and gas facilities with the most impact on electric power generation as critical during an energy emergency and rules requiring the energy industry to weatherize facilities that are designated as critical and included on the state's electricity supply chain map. Under current rules of the Public Utility Commission of Texas (PUC), a facility designated as critical by the RRC is ineligible to participate in ERCOT's load resource program, which is a long-standing tool used by ERCOT to manage the electric grid. The program allows ERCOT to shut off power to large energy consumers, enabling that power to be dispatched to higher priority facilities. Per ERCOT, in the ERCOT markets, the value of a load resource's load reduction is equal to that of an increase in generation by a generating plant. C.S.H.B. 3244 seeks to provide for critical facilities to become eligible to participate in the load resource program by, among other things, requiring the PUC to collaborate with the RRC to adopt rules to allow a gas supply chain facility that is not included on the electricity supply chain map to serve as a load resource or an emergency response resource.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 7 of this bill.

ANALYSIS

C.S.H.B. 3244 amends the Natural Resources Code, with regard to rules of the Railroad Commission of Texas (RRC) that establish a process to designate certain natural gas facilities and entities associated with providing natural gas in Texas as critical customers or critical gas suppliers during energy emergencies, to remove the requirement that the rules require that only facilities and entities that are prepared to operate during a weather emergency may be designated as a critical customer.

C.S.H.B. 3244 changes the entity who, under RRC rule, must assess the weatherization plans, procedures, and operations of an operator of a gas supply chain facility that experiences repeated weather-related or major weather-related forced interruptions of production from a person contracted by the operator who is not an employee of the operator to the operator itself. The bill, under RRC rule, requires the operator to propose remedial measures and to submit the measures to the RRC. The bill changes the solution the RRC may require an operator to implement from

appropriate recommendations included in a submitted assessment to the submitted remedial measures and makes the requirement contingent on an RRC determination that the remedial measures are necessary for compliance with RRC weather emergency preparedness rules.

C.S.H.B. 3244 requires the assessment of a penalty for a violation of a rule relating to gas supply chain facility weather emergency preparedness to be assessed in the prescribed manner for the assessment of an RRC administrative penalty and establishes that each day a violation occurs constitutes a separate offense. The bill prohibits the RRC from assessing a penalty against a facility operator for a violation of such a rule if the RRC determines that the operator made reasonably prudent efforts to comply with the rule, regardless of whether the facility failed to operate during a weather emergency.

C.S.H.B. 3244 amends the Utilities Code to require the Public Utility Commission of Texas to collaborate with the RRC to adopt rules, not later than December 1, 2023, to allow a gas supply chain facility that is not included on the electricity supply chain map to serve as a load resource or an emergency response resource.

C.S.H.B. 3244 specifies that the information written, produced, collected, assembled, or maintained under law or in connection with the transaction of official business by the Texas Electricity Supply Chain Security and Mapping Committee or a committee officer or employee that is subject to provisions of state public information law relating to the disclosure of information for legislative purposes includes information that is confidential due to the identification of the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. The bill establishes that, except as otherwise provided as such, portions of documents in the committee's possession that are confidential due to the identification of such details are not subject to disclosure under state public information law.

C.S.H.B. 3244 authorizes the committee to include on the electricity supply chain map a gas supply chain facility or a gas pipeline facility only after the RRC provides the facility's operator with notice and an opportunity for a hearing in the manner provided by the Administrative Procedure Act. The bill requires the RRC, if an operator requests a hearing, to hold the hearing and issue a decision in writing in accordance with the act as to whether the facility may be included on the map based on applicable rules and provisions of the Utilities Code and Natural Resources Code. The bill requires the committee to comply with the decision issued by the RRC. The bill establishes the following:

- except as otherwise provided by provisions relating to the committee, the information, data, and documents collected during a hearing convened under these provisions of the bill that are confidential due to the identification of the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism are not subject to disclosure under state public information law; and
- portions of a decision or order issued by the RRC under these provisions that are confidential as such are not subject to such disclosure.

These provisions of the bill apply only to the addition of a facility to the map on or after the bill's effective date.

C.S.H.B. 3244 repeals provisions that provide for RRC weather emergency preparedness reports.

C.S.H.B. 3244 repeals the following provisions:

- Section 86.044(h), Natural Resources Code; and
- Section 186.008, Utilities Code.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3244 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

With regard to rules of the RRC that establish a process to designate certain natural gas facilities and entities associated with providing natural gas in Texas as critical customers or critical gas suppliers during energy emergencies, the substitute omits a provision in the introduced that, with respect to the requirement that the rules consider essential operational elements when defining critical customer designations and critical gas supply information, included the following as such elements:

- the net load of electricity required for a facility; and
- the ability of an operator to reduce demand from a facility in response to an instruction issued by an independent system operator.

The substitute includes provisions absent in the introduced that require the Public Utility Commission of Texas to collaborate with the RRC to adopt rules, not later than December 1, 2023, to allow a gas supply chain facility that is not included on the electricity supply chain map to serve as a load resource or an emergency response resource.

The introduced and the substitute differ in the following ways with regard to the inclusion by the Texas Electricity Supply Chain Security and Mapping Committee of a gas supply chain facility or a gas pipeline facility on the electricity supply chain map:

- with regard to the entity that provides a facility operator with notice and an opportunity for a hearing, the introduced specified the entity as the committee whereas the substitute specifies the entity as the RRC;
- the introduced specified the hearing as a contested case hearing, whereas the substitute does not include this specification; and
- the substitute includes provisions absent in the introduced that establish the following:
 - except as otherwise provided, the information, data, and documents collected during a hearing that are confidential due to the identification of the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism are not subject to disclosure under state public information law; and
 - portions of a decision or order issued by the RRC that are confidential as such are not subject to such disclosure.