

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3824
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas has the fastest-growing battery market in the country, with more than 13,000 megawatts (MW) of total battery energy storage resource discharge capacity and an additional 120,000 MWs of stand-alone battery projects in the interconnection queue. With the increasing integration of utility-scale batteries into Texas' electricity system, there is a growing need for clear safety standards and emergency response protocols to govern battery facility operations.

H.B. 3824 creates Chapter 187 of the Utilities Code to establish fire safety standards and emergency operations plans for battery energy storage systems in Texas.

Specifically, H.B. 3824 would require the insurance commissioner to, by rule, adopt fire safety standards and testing requirements for the design, installation, operation, and safety of battery energy storage facilities with a capacity of at least one megawatt hour installed on or after January 1, 2027. The standards and requirements would have to be based solely on nationally recognized standards for battery energy storage equipment or facilities established by UL Solutions and minimum standards related to stationary energy storage facilities established by the National Fire Protection Association. The commissioner could periodically update the standards and requirements as necessary to reflect changes in the UL or National Fire Protection Association standards on which the commissioner's standards were based.

The bill would require each battery operator or municipally owned utility that owned or operated a battery energy storage facility to ensure that the facility met the adopted standards in effect at the time the operator or utility first applied for a building permit or similar authorization from the relevant political subdivision to install the facility. Unless expressly authorized by another statute, a municipality or county could not adopt, enforce, or maintain a regulation that was inconsistent with the standards adopted by the commissioner under H.B. 3824. On request by a municipality in which a facility subject to the bill was located, or a county if the facility were in an unincorporated area, the facility owner or operator would be required to, at the battery operator's expense, contract with an independent, third-party engineer licensed in this state or other consultant with appropriate expertise to:

- evaluate the facility before the start of commercial operations to ensure compliance with the requirements of H.B. 3824;
- produce a written report that included the evaluation, identified any noted deficiencies in compliance, and recommended actions to correct deficiencies; and
- provide the report to the requesting municipality or county.

At the time the operator first applied for a building permit or similar authorization from the relevant political subdivision to install the battery energy storage facility, the battery operator would have to make available to the engineer or consultant and the requesting municipality or county:

- documents relating to the site layout;
- any manufacturer specifications for the facility;
- a UL 9540A report and any UL listings and associated documentation for the facility;
- National Fire Protection Association standards, including any associated documentation, for the facility;
- electrical drawings for the facility;

- monitoring procedures for the facility; and
- fire protection system documentation for the facility.

At the commencement of facility installation, the operator would have to provide the relevant political subdivision with a required emergency operations plan for the facility. At least once every five years, each battery operator would have to contract with, at the battery operator's expense, an independent, third party engineer licensed in Texas or other consultant with appropriate expertise to produce a fire safety inspection report for the facility and provide the report to the municipality or county, as applicable. The report would have to include an evaluation of:

- the structural integrity and weatherproofing of any enclosure against design specifications at the site of the facility;
- the maintenance schedule and any associated documentation for the facility;
- the emergency operations plan required by the bill;
- any hazard mitigation analysis for the facility; any monitoring procedures and gas or fire safety alarm activation history for the facility;
- fire protection system inspection and testing records for the facility; and
- the ventilation equipment of the facility or other safety equipment with the same or a similar function.

The report also would have to identify any noted deficiencies and recommend actions to correct them.

H.B. 3824 would require a battery operator or a municipally owned utility to produce a site-specific emergency operations plan for each battery energy storage facility site owned or operated by the operator or utility. The plan would have to include:

- an identification of potential risks and hazards specific to the site;
- a hazard mitigation analysis;
- procedures for the safe shutdown, de-energizing, or isolation of equipment and facilities under emergency conditions;
- procedures for handling equipment damaged in a fire or other emergency event;
- procedures and schedules for conducting drills using the procedures required by the bill and documentation related to the performance of the drills;
- procedures for communication between the operator or utility and first responders, including procedures that facilitate communication between first responders and emergency contacts designated by the operator or utility; and
- emergency operations protocols to ensure safety during critical events.

The battery operator or a municipally owned utility would be required to:

- provide the site-specific emergency operations plan to the local first responder responsible for providing fire protection services in the area in which the facility was located before operating the battery energy storage facility; and
- maintain safety data sheets or comparable documents as well as the site-specific emergency operations plan at an on-site location accessible to personnel responsible for the operations and maintenance of the battery energy storage facility and first responders.

The battery operator or a municipally owned utility would be required to offer to local first responders, free of cost, education and annual training regarding responding to an equipment failure incident at the battery energy storage facility site.

The insurance commissioner, by rule, would have to delegate to the state fire marshal the authority to take disciplinary and enforcement actions to enforce the bill and adopt a schedule of administrative penalties for violations subject to a penalty under the bill to ensure that the amount of a penalty imposed was appropriate to the violation.

The bill would take effect September 1, 2025.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 3824 amends current law relating to fire safety standards and emergency operations plans for the operation of battery energy storage facilities and provides administrative penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Sections 187.003, 187.004, and 187.005, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 4, Utilities Code, by adding Chapter 187, as follows:

CHAPTER 187. BATTERY ENERGY STORAGE FACILITY SAFETY

Sec. 187.001. DEFINITIONS. Defines "battery energy storage facility," "battery energy storage resource," "battery operator," "commissioner," "electric cooperative," "municipally owned utility," "electric utility," and "power generation company."

Sec. 187.002. APPLICABILITY. Provides that this chapter applies only to a battery energy storage facility with a capacity of one megawatt hour or greater and a commercial operations date, determined according to criteria adopted by the commissioner of insurance (commissioner), that occurs on or after January 1, 2027.

Sec. 187.003. FIRE SAFETY STANDARDS FOR BATTERY ENERGY STORAGE FACILITIES. (a) Require the commissioner by rule to adopt fire safety standards and testing requirements for the design, installation, operation, and safety of battery energy storage facilities based solely on nationally recognized standards for battery energy storage equipment or facilities established by UL Solutions, such as UL 9540A testing standards and minimum standards related to stationary energy storage facilities established by the National Fire Protection Association, such as the 2023 edition of NFPA 855 or a later edition.

(b) Authorizes the commissioner to periodically update the standards and requirements adopted under Subsection (a) as necessary to reflect changes in the nationally recognized standards and the National Fire Protection Association standards on which the commissioner's standards are based.

(c) Requires each battery operator or municipally owned utility that owns or operates a battery energy storage facility to ensure that the facility meets the standards for design, installation, operation, and safety adopted by the commissioner under Subsection (a) in effect at the time the operator or utility first submits an application for a building permit or other authorization from the relevant political subdivision to install the facility.

(d) Prohibits a municipality or county, unless expressly authorized by another statute, from adopting, enforcing, or maintaining an ordinance, order, or rule regulating conduct in a field of regulation that is inconsistent with the standards for design, installation, operation, and safety adopted by the commissioner under Subsection (a).

(e) Requires a battery operator that owns or operates the facility, before the commercial operations date of a battery energy storage facility, on request by a municipality in which the facility is located, or a county in which the facility is located if the facility is in an unincorporated area, at the battery operator's expense, to select and contract with an independent, third-party engineer licensed in this state or other consultant with appropriate expertise to:

(1) evaluate the design, safety, and installation of the facility to ensure compliance with the requirements of this section;

(2) produce a written report that includes the evaluation, identifies any noted deficiencies in compliance with the standards adopted under this section, and recommends appropriate actions to correct deficiencies; and

(3) provide the written report described by Subdivision (2) to the requesting municipality or county.

(f) Requires the battery operator to make available to the engineer or consultant and the requesting municipality or county certain documents if held or created by the battery operator.

(g) Requires each battery operator, at least once every five years, to select and contract with, at the battery operator's expense, an independent, third-party engineer licensed in this state or other consultant with appropriate expertise to produce a fire safety inspection report for the battery operator's battery energy storage facility and provide the report to the municipality in which the facility is located or to the county in which the facility is located if the facility is in an unincorporated area. Requires that the report meet certain criteria.

Sec. 187.004. EMERGENCY OPERATIONS PLANS FOR BATTERY ENERGY STORAGE FACILITIES. (a) Defines "first responder."

(b) Authorizes the commissioner by rule to prescribe procedures or requirements as necessary for the purposes of this section.

(c) Requires a battery operator or a municipally owned utility to produce a site-specific emergency operations plan for each battery energy storage facility site owned or operated by the battery operator or utility. Requires that the site-specific emergency operations plan include certain elements.

(d) Requires the battery operator or municipally owned utility to:

(1) before the commercial operations date of the battery energy storage facility, provide the site-specific emergency operations plan developed under Subsection (c) to the local first responder that is responsible for providing fire protection services in the area in which the facility is located; and

(2) maintain safety data sheets or comparable documents and the site-specific emergency operations plan developed under Subsection (c) at an on-site location accessible to personnel responsible for the operations and maintenance of the battery energy storage facility and first responders.

(e) Requires the battery operator or municipally owned utility to offer to local first responders, at no cost to the responders, education and annual training regarding responding to an equipment failure incident at the battery energy storage facility site, including certain trainings and reviews.

Sec. 187.005. ENFORCEMENT. (a) Requires the commissioner by rule to delegate to the state fire marshal the authority to take disciplinary and enforcement actions, including the imposition of administrative penalties, to enforce this chapter in the manner provided by Section 417.010 (Disciplinary and Enforcement Actions; Administrative Penalties), Government Code, and adopt a schedule of administrative penalties for violations subject to a penalty under this chapter to ensure that the amount of an administrative penalty imposed is appropriate to the violation, in the manner provided by Section 417.010, Government Code.

(b) Provides that Section 417.010, Government Code, applies to the enforcement of this chapter by the state fire marshal.

SECTION 2. Effective date: September 1, 2025.