

By: King

H.B. No. 3824

A BILL TO BE ENTITLED

AN ACT

relating to fire safety standards and emergency operations plans
for the operation of battery energy storage.

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

SECTION 1. Subtitle B, Title 4, Utilities Code, is amended
by adding Chapter 187 to read as follows:

CHAPTER 187. BATTERY ENERGY STORAGE FIRE SAFETY

Sec. 187.001. DEFINITIONS. In this chapter:

(1) "Battery energy storage" means a battery energy
storage facility or battery energy storage equipment considered to
be a generation asset under Section 35.152(a) and operated inside
or outside the ERCOT power region.

(2) "Battery operator" means an electric cooperative,
an electric utility, or a power generation company that owns or
operates battery energy storage.

(3) "Electric cooperative" and "municipally owned
utility" have the meanings assigned by Section 11.003.

(4) "Electric utility" and "power generation company"
have the meanings assigned by Section 31.002.

Sec. 187.002. FIRE SAFETY STANDARDS FOR BATTERY ENERGY
STORAGE. (a) The state fire marshal shall adopt and periodically
update fire safety standards and testing requirements for battery
energy storage. The standards and requirements must be based on:

(1) model code requirements for battery energy storage

equipment or facilities established by UL Solutions, such as UL 9540A performance criteria; and

(2) minimum standards related to the design, safety, and installation of stationary energy storage systems established by the National Fire Protection Association, such as NFPA 855.

(b) Each battery operator or municipally owned utility that owns or operates battery energy storage shall ensure that the storage meets the fire safety standards and testing requirements adopted by the state fire marshal under Subsection (a) at the time of interconnection.

(c) Unless expressly authorized by another statute, a municipality or county may not adopt, enforce, or maintain an ordinance, order, or rule regulating conduct in a field of regulation that is inconsistent with the fire safety standards and testing requirements adopted by the state fire marshal. An ordinance, order, or rule that violates this subsection is void and unenforceable.

(d) On request by a municipality in which battery energy storage is located, or a county in which battery energy storage is located if the storage is in an unincorporated area, a battery operator that owns or operates the battery energy storage shall, at the battery operator's expense, 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 battery energy storage before the start of commercial operations to ensure compliance with the requirements of this

1 section;

2 (2) produce a written report that:

3 (A) includes the evaluation;

4 (B) identifies any noted deficiencies in
5 compliance with the standards adopted by the state fire marshal;
6 and

7 (C) recommends appropriate actions to correct
8 deficiencies; and

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

11 (e) The battery operator must make available to the engineer
12 or consultant and the requesting municipality or county the
13 following documents if held or created by the battery operator:

14 (1) documents relating to the site layout;

15 (2) the emergency operations plan described by Section
16 187.003;

17 (3) a hazard mitigation analysis for the battery
18 energy storage;

19 (4) any manufacturer specifications for the battery
20 energy storage;

21 (5) a UL 9540A report and any UL listings and
22 associated documentation for the battery energy storage;

23 (6) National Fire Protection Association standards,
24 including any associated documentation, for the battery energy
25 storage;

26 (7) electrical drawings for the battery energy
27 storage;

1 (8) monitoring procedures for the battery energy
2 storage;

3 (9) alarm activation criteria for the battery energy
4 storage; and

5 (10) fire protection system documentation for the
6 battery energy storage.

7 (f) At least once every three years, each battery operator
8 shall contract, at the battery operator's expense, with an
9 independent, third-party engineer licensed in this state or other
10 consultant with appropriate expertise to produce a fire safety
11 inspection report for the battery operator's battery energy storage
12 and provide the report to the municipality in which the storage is
13 located or to the county in which the storage is located if the
14 facility or equipment is in an unincorporated area. The report
15 must:

16 (1) include an evaluation of:

17 (A) the structural integrity and weatherproofing
18 of any enclosure at the site of the storage;

19 (B) the maintenance schedule and any associated
20 documentation for the storage;

21 (C) the emergency operations plan described by
22 Section 187.003;

23 (D) any hazard mitigation analysis for the
24 storage;

25 (E) any monitoring procedures and monitoring
26 history for the storage;

27 (F) fire protection system inspection and

1 testing records for the storage; and

2 (G) the ventilation systems of the storage; and

3 (2) identify any noted deficiencies and recommend
4 appropriate actions to correct deficiencies.

5 Sec. 187.003. EMERGENCY OPERATIONS PLANS FOR BATTERY ENERGY
6 STORAGE. (a) In this section, "first responder" has the meaning
7 assigned by Section 78B.001, Civil Practice and Remedies Code.

8 (b) This section applies only to a battery operator or a
9 municipally owned utility that owns or operates battery energy
10 storage, whether standalone or colocated with another generation
11 asset.

12 (c) A battery operator or a municipally owned utility to
13 which this section applies shall produce a site-specific emergency
14 operations plan for each battery energy storage site owned or
15 operated by the battery operator or utility. The site-specific
16 emergency operations plan must include:

17 (1) an identification of potential risks and hazards
18 specific to the site;

19 (2) a hazard mitigation analysis;

20 (3) procedures for the safe shutdown, de-energizing,
21 or isolation of equipment and systems under emergency conditions,
22 including emergency procedures to be followed in case of fire;

23 (4) procedures for handling equipment damaged in a
24 fire or other emergency event;

25 (5) procedures and schedules for conducting drills
26 using the procedures listed under this subsection and documentation
27 related to the performance of the drills;

1 (6) procedures for communication between the operator
2 of the storage and first responders, including procedures that
3 facilitate communication between first responders and emergency
4 contacts designated by the operator of the storage; and

5 (7) emergency operations protocols to ensure safety
6 during critical events, including protocols that provide for the
7 safety of:

8 (A) nearby residents;

9 (B) neighboring properties;

10 (C) first responders; and

11 (D) the environment, including measures to
12 mitigate or prevent pollution of air, soil, groundwater, or surface
13 water.

14 (d) The battery operator or municipally owned utility
15 shall:

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

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

26 (e) The battery operator or municipally owned utility shall
27 offer to local first responders, at no cost to the responders,

1 education and annual training regarding responding to an equipment
2 failure incident at the battery energy storage site, including:

3 (1) training on specific characteristics of battery
4 energy storage technology;

5 (2) training on protecting first responders during
6 incident response;

7 (3) training on hazards commonly associated with
8 incident response;

9 (4) training on incident response protocols,
10 including an overview of the site-specific emergency operations
11 plan developed under Subsection (c); and

12 (5) an on-site review of the perimeter, major
13 equipment, and ingress and egress to the battery energy storage
14 site.

15 SECTION 2. Sections 187.002 and 187.003, Utilities Code, as
16 added by this Act, apply only to battery energy storage facilities
17 or equipment for which interconnection is approved by the
18 independent system operator of jurisdiction on or after January 1,
19 2027.

20 SECTION 3. This Act takes effect September 1, 2025.