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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; 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 section;

(2) produce a written report that:

(A) includes the evaluation;

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

(C) recommends appropriate actions to correct deficiencies; and

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

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

(1) documents relating to the site layout;

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

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

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

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

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

(7) electrical drawings for the battery energy storage;

(8) monitoring procedures for the battery energy

storage;

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

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

(f) At least once every three years, each battery operator shall contract, at the battery operator's expense, with 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 and provide the report to the municipality in which the storage is located or to the county in which the storage is located if the facility or equipment is in an unincorporated area. The report must:

(1) include an evaluation of:

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

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

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

(D) any hazard mitigation analysis for the storage;

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

(F) fire protection system inspection and testing records for the storage; and

(G) the ventilation systems of the storage; and

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

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

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

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

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

(2) a hazard mitigation analysis;

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

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

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

(6) procedures for communication between the operator

of the storage and first responders, including procedures that facilitate communication between first responders and emergency contacts designated by the operator of the storage; and

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

(A) nearby residents;

(B) neighboring properties;

(C) first responders; and

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

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

(1) before starting commercial operations, 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 battery energy storage is located; and

(2) maintain materials 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 and first responders.

(e) The battery operator or municipally owned utility shall 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 site, including:

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

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

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

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

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

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

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