

BILL ANALYSIS

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S.B. 361
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the aftermath of Hurricane Ike, the availability of drinking water and effective waste water treatment was an immediate concern that grew as power outages continued. Within 75 miles of the coast, there are 1,287 community water systems. Twenty percent of the water systems serving approximately seven million people in the affected area were out of service for varying periods of time.

Of the municipal utility districts that had generators, roughly 25 percent failed to function or ran out of fuel. Fourteen percent of the waste water lift stations in the hurricane affected area discharged into open streams. Even nine days after the storm, nearly 250,000 people lacked running water.

As proposed, S.B. 361 requires utility districts to have operating emergency auxiliary power so that fresh water distribution and waste water treatment is not interrupted during widespread power outages.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 13.139, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 13.139, Water Code, by adding Subsections (e)-(m), as follows:

(e) Requires a retail public utility, exempt utility, or provider of wholesale sewer service or potable water service that furnishes water or sewer service to more than one customer to ensure the operation of its water and sewer systems during an extended power outage and to adopt and submit to the Texas Commission on Environmental Quality (TCEQ) for its approval an emergency preparedness plan that demonstrates the entity's ability to continue to provide water and sewer services during an extended power outage.

(f) Requires TCEQ to review and approve or disapprove an emergency preparedness plan submitted under Subsection (e) and issue a notification of approval or a notification of the reasons for disapproval of the plan. Authorizes an emergency preparedness plan to provide for:

(1) the maintenance of automatically starting auxiliary generators for that purpose;

(2) the sharing of auxiliary generator capacity with one or more retail public utilities, exempt utilities, or providers of wholesale sewer service or potable water service in accordance with TCEQ rules that prescribe the circumstances under which that capacity is authorized to be shared;

(3) the negotiation of leasing and contracting agreements that ensure each entity's ability to meet minimum TCEQ standards regarding water pressure and sewer service;

(4) the use of portable generators capable of serving multiple facilities equipped with quick-connect systems; or

(5) the use of lift station direct bypass systems.

(g) Requires each retail public utility, exempt utility, or provider of wholesale sewer service or potable water service required to submit an emergency preparedness plan under this section to submit its plan to TCEQ by a date determined according to certain scheduled phases.

(h) Requires TCEQ, at the beginning of each phase specified by Subsection (g), to provide, for a period to be determined by TCEQ, an affected retail public utility, exempt utility, or provider of wholesale sewer service or potable water service with access to TCEQ's financial, managerial, and technical contractors to assist the entity in complying with the applicable emergency preparedness plan submission deadline. Authorizes TCEQ, if TCEQ determines that an entity is capable of submitting an emergency preparedness plan at a time earlier than the entity's applicable phase deadline, to require the entity to submit its emergency preparedness plan at an earlier date.

(i) Requires TCEQ by rule to create an emergency preparedness plan template for use by a retail public utility, exempt utility, or provider of wholesale sewer service or potable water service when submitting a plan under this section. Requires the emergency preparedness plan template to contain a list and explanation of the of the preparations an entity is authorized to make under Subsection (f) for TCEQ to approve the entity's emergency preparedness plan and a list of all TCEQ rules and standards pertaining to emergency preparedness plans.

(j) Requires that an emergency generator used as part of an approved emergency preparedness plan under Subsection (f) comply with a design submitted and sealed by a registered professional engineer and approved by TCEQ and be operated for at least six hours every three months for maintenance purposes.

(k) Requires a retail public utility, exempt utility, or provider of wholesale sewer service or potable water service to implement its emergency preparedness plan as approved by TCEQ. Requires TCEQ to inspect each entity to ensure that the entity complies with the approved plan.

(l) Requires a retail public utility, exempt utility, or provider of wholesale sewer service or potable water service to submit to the county judge and the office of emergency management of each county in which the entity has more than one customer a copy of the emergency preparedness plan approved under Subsection (f) and TCEQ's notification that the plan is approved.

(m) Prohibits TCEQ from granting a waiver of the requirements of Subsections (e) and (k) to any retail public utility, exempt utility, or provider of wholesale sewer service or potable water service that provides water or sewer service to more than one customer.

SECTION 2. Requires TCEQ, not later than December 1, 2009, to adopt standards as required by Subsections 13.139(e) through (m), Water Code, as added by this Act.

SECTION 3. Effective date: upon passage or September 1, 2009.