

BILL ANALYSIS

C.S.H.B. 457
By: Alvarado
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Each year, Texas coastal areas are faced with the risk of devastation brought on by the hurricane season. This past season was particularly active and resulted in significant damage to many coastal cities. In the wake of these hurricanes, many Texas residents and businesses were left without power for weeks, resulting in the depletion of emergency supplies and resources.

C.S.H.B. 457 requires the division of emergency management in the office of the governor to develop an annex to the state emergency management plan that addresses alternative electrical power for certain service stations and requires such stations to adopt and submit for the division's approval an emergency preparedness plan ensuring a station maintains certain abilities if electric power from a utility is interrupted.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the division of emergency management in the office of the governor in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 457 amends the Government Code to require the division of emergency management in the office of the governor to develop an annex to the state emergency management plan that addresses alternative electrical power during the first 120 hours immediately following a disaster for a service station that is located in a county with a population of 3.3 million or more and has six or more fueling positions. The bill requires the annex to include provisions for post-disaster assessment of a service station's structural integrity and capability to operate safely; for the dissemination of information between service stations capable of operating during that period and all necessary emergency personnel; and to identify service stations capable of operating fuel pumps, dispensing equipment, life-safety systems, and payment acceptance equipment through the use of alternative electrical power, including alternative electrical generators, within 72 hours of being considered safe to operate by reviewing the submitted emergency preparedness plans as described below.

C.S.H.B. 457 requires the division by rule to require such a service station to adopt and submit for the division's approval an emergency preparedness plan ensuring that if electric power from a utility is interrupted, the service station maintains the ability to operate fuel pumps, dispensing equipment, life-safety systems, and payment acceptance equipment within 72 hours of being considered safe to operate. The bill requires the division to review and approve or disapprove an emergency preparedness plan and issue a notification of approval or a notification of the reasons for disapproval of the plan. The bill requires an emergency preparedness plan to demonstrate that the service station possesses on its premises, or has entered into a contract under which another person will provide, an alternative electrical generator or any other emergency electrical source and the capability to operate fuel pumps, dispensing equipment, life-safety systems, and payment acceptance equipment using the emergency electrical source within 72 hours of being considered safe to operate, and include a proposed schedule of the periodic servicing and testing

of the emergency electrical source that complies with the division's rules. The bill requires a service station to maintain documentation of any periodic servicing and testing of the emergency electrical source and requires the documents to be made available, on request, to the division.

C.S.H.B. 457 requires the division to adopt rules necessary to implement the bill's provisions regarding an emergency preparedness plan, including prescribing standards relating to the periodic servicing and testing of an alternative electrical generator or other emergency electrical source. The bill requires installation of equipment and appropriate wiring, including transfer switches, for an emergency electrical source for purposes of the bill's provisions to be performed by a licensed electrical contractor in accordance with all local, state, and national safety rules or regulations.

C.S.H.B. 457 defines "alternative electrical generator" and "service station."

EFFECTIVE DATE

January 1, 2010.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 457 differs from the original by adding provisions to the Government Code, rather than the Business & Commerce Code. The substitute differs from the original by applying its provisions to a service station that is located in a county with a population of 3.3 million or more and that has six or more fueling positions, rather than to a self-service, full-service, or a combination of self-service and full-service service station located within 100 miles of the Gulf of Mexico or of a bay or inlet of the gulf regardless of whether the service station is located on the grounds of, or is owned by, another business entity that does not engage in the business of selling motor vehicle fuel to the public. The substitute removes a provision in the original making the bill's provisions inapplicable to an automobile dealer, a person who operates a fleet of motor vehicles, or a person who sells motor fuel exclusively to a fleet of motor vehicles.

C.S.H.B. 457 adds provisions not in the original requiring the division of emergency management in the office of the governor to develop an annex to the state emergency management plan that addresses alternative electrical power for a service station during the first 120 hours immediately following a disaster and requiring the annex to include certain provisions regarding service stations.

C.S.H.B. 457 differs from the original by requiring a service station to adopt and submit an emergency preparedness plan to ensure the station maintains power to operate fuel pumps, dispensing equipment, life-safety equipment, and payment-acceptance equipment within a certain time frame following a disaster, whereas the original required a service station to be equipped with at least one alternative electrical generator and be prewired with a transfer switch to operate the same equipment with no reference to time frame or disaster. The substitute adds provisions not in the original related to the requirements of a plan, including requirements relating to an alternative electrical generator or other emergency electrical source, plan review by the division, and adoption of rules by the division to implement a plan.

C.S.H.B. 457 removes a provision in the original prohibiting a local government from issuing a certificate of occupancy to a service station, if the local government requires a certificate for completion of construction of a station, unless the local government determines that the station has the required equipment and operational capabilities.

C.S.H.B. 457 differs from the original by requiring a service station to maintain documentation of any periodic servicing and testing of an emergency electrical source required by the bill, rather than requiring a service station to keep a written statement attesting to the periodic testing and ensured operational capacity of related equipment. The substitute removes a provision in the

original requiring a service station to keep a copy of the documentation of the installation of appropriate wiring for the operation of an alternative electrical generator, including a transfer switch, on-site or at its corporate headquarters. The substitute differs from the original by requiring documentation to be made available, on request, to the division, rather than the division or the Department of Agriculture.

C.S.H.B. 457 provides a January 1, 2010, effective date, whereas the original provides a June 1, 2010, effective date.