

BILL ANALYSIS

Senate Research Center
85R2330 GRM-D

S.B. 83
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Business & Commerce
2/6/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

An ever-increasing societal dependence on electricity and today's unpredictable geopolitical environment has greatly elevated the significance of high-impact threats to the safety of Texas.

To date, more than 11 comprehensive, academically vetted, and scientifically backed reports authored or sponsored by the federal government have warned of the electric grid's vulnerabilities to physical, cyber, and electromagnetic pulse (EMP) threats. However, unlike physical and cyber, the threat from an EMP to the nation's electric grid has been all but ignored by both the federal government and the electric power industry.

This is a nationwide threat; however, Texas stands alone as the only state with an isolated electrical grid that is essentially separated from the rest of the nation. This affords Texas the opportunity to unilaterally secure its portion of the electric grid from the EMP threat.

This bill would develop a disaster preparedness plan, implement threat protection, and set recovery requirements to secure our state's electric grid from the threat of manmade EMP attacks, geomagnetic solar storms, radio frequency weapons, and physical attack. This bill would add Section 418.201, Government Code, to create a 10-member electromagnetic threat preparedness task force within the Texas Division of Emergency Management to develop a comprehensive threat protection, prioritization, and recovery plan. This bill would amend Chapter 39, Utilities Code by adding a grid security subchapter. This subchapter would establish a six-member grid security advisory committee to evaluate, with the cooperation of the Electric Reliability Council of Texas, a variety of technologies available to improve the resiliency of the Texas electric grid.

As proposed, S.B. 83 amends current law relating to protection of energy critical infrastructure from electromagnetic, geomagnetic, terrorist, and cyber-attack threats.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission in SECTION 2 (Section 39.602, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 418, Government Code, by adding Subchapter I, as follows:

SUBCHAPTER I. ELECTROMAGNETIC THREAT PREPAREDNESS

Sec. 418.201. ELECTROMAGNETIC THREAT PREPAREDNESS TASK FORCE. (a) Defines "energy critical infrastructure."

(b) Establishes that the electromagnetic threat preparedness task force (task force) is created. Requires the task force to develop a comprehensive recovery plan.

(c) Establishes that the task force consists of 10 members appointed by the chief described by Section 418.041 (Organization). Requires each member to be a regional emergency management representative.

(d) Requires the task force to take certain enumerated steps to increase security and awareness regarding electromagnetic, geomagnetic, and cyber-attack threats.

(e) Provides that information collected by the task force related to the security of the electric grid is confidential and is not subject to disclosure under Chapter 552 (Public Information).

(f) Requires the task force, not later than September 1, 2018, to prepare and submit to the governor and the legislature a report of the task force's findings and recommendations.

(g) Provides that a member of the task force established under this section is not entitled to compensation. Authorizes members to be reimbursed for certain necessary expenses.

(h) Provides that this section expires September 1, 2018.

Sec. 418.202. TECHNOLOGICAL HAZARDS. (a) Defines "energy critical infrastructure."

(b) Requires the Texas Division of Emergency Management (TDEM) to implement the comprehensive threat protection and recovery plan developed by the task force for energy critical infrastructure and vital utility facilities of this state against electromagnetic, geomagnetic, terrorist, and cyber-attack threats.

(c) Authorizes the governor to instruct an agency to take actions as are necessary to implement the comprehensive threat protection and recovery plan developed by the task force.

(d) Provides that information collected by TDEM related to the security of the electric grid is confidential and is not subject to disclosure under Chapter 552.

SECTION 2. Amends Chapter 39, Utilities Code, by adding Subchapter M, as follows:

SUBCHAPTER M. GRID SECURITY

Sec. 39.601. INFORMATION RELATED TO GRID SECURITY. Requires the independent organization certified under Section 39.151 (Essential Organizations) to collect and compile information related to the security of the electric grid. Provides that the information is confidential and is not subject to disclosure under Chapter 552, Government Code.

Sec. 39.602. ELECTRIC GRID SECURITY PROGRAM. (a) Defines "committee" and "energy critical infrastructure."

(b) Requires the Public Utility Commission of Texas (PUC) to establish a program to meet implementation deadlines and pay costs incurred to increase the security of the electric grid in the Electric Reliability Council of Texas (ERCOT). Requires that the program be designed to pay for certain costs associated with the security of the electric grid.

(c) Requires entities other than PUC seeking reimbursement from the program to provide adequate documentation to the committee to demonstrate that the investment, expense, or cost is eligible for reimbursement under this section. Requires PUC to authorize reimbursement of an eligible investment, expense, or cost on receipt of a certification from the committee that the item is eligible under this section not later than five business days after the date of the receipt of a valid certification.

(d) Requires PUC to report each quarter the total amount paid by the program for each of the categories listed in Subsection (b) to the governor, lieutenant governor, and speaker of the house of representatives.

(e) Provides that this section does not prevent recovery authorized by this title for a cost incurred through a reasonable and necessary expenditure related to an ongoing effort to secure electric facilities from physical and cybersecurity threats by certain entities.

(f) Prohibits the program from paying for an audit described by Subsection (b)(1) that is conducted by an independent security expert unless the expert meets professional standards adopted by PUC rule that are at least as stringent as those required for certification as a certified information systems security professional or global industrial cyber security professional.

Sec. 39.603. GRID SECURITY ADVISORY COMMITTEE. (a) Sets forth the composition of the committee.

(b) Requires the governor to designate a member of the committee to serve as presiding officer.

(c) Requires the committee to convene at the call of the presiding officer.

(d) Requires the committee to study the Texas electric grid and the computer systems and networks related to the grid. Requires the study to evaluate the grid's current state and to assess and recommend certain improvements to the security of energy critical infrastructure.

(e) Authorizes the committee to share its findings with any state agency it considers important to the security of the electric grid or associated computer systems or networks. Provides that a state agency with which the committee shares information is, to the extent allowed by law, encouraged to implement any recommendations that the agency determines will improve the security of the state's electric grid or associated computer systems or networks.

(f) Requires ERCOT to cooperate with the committee to provide any information and resources the committee considers important to the study.

(g) Provides that a member of the committee is not entitled to compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660 (Travel Expenses), Government Code, and the General Appropriations Act.

(h) Requires a vacancy on the committee to be filled for the unexpired term in the same manner as the original appointment.

(i) Provides that the committee is not subject to Chapter 2110 (State Agency Advisory Committees), Government Code.

(j) Requires the committee, not later than December 1, 2018, to prepare a report of its findings, including any recommendations for legislation resulting from the findings, and submit the report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(k) Provides that the committee's work relates to sensitive matters of security. Provides that, notwithstanding any other law, the meetings, work, and findings of the committee are not subject to the requirements of Chapter 551 (Open Meetings) or 552, Government Code.

Sec. 39.604. GRID PROTECTION. (a) Provides that this section applies to a transmission and distribution utility, an electric cooperative operating in ERCOT, a river authority operating in ERCOT, and a municipally owned utility operating in ERCOT.

(b) Requires, not later than December 31, 2018, each entity to which this section applies to assess and report to the technological hazards unit of TDEM the vulnerabilities the equipment, facilities, and systems the utility uses to provide power have from a high altitude electromagnetic pulse device, geomagnetic storms, and intentional electromagnetic interference.

(c) Requires, not later than December 31, 2021, each entity to which this section applies to complete enhancements to transformers, control centers, substations, and other equipment sufficient to comply with certain standards, as applicable to the equipment or facility.

(d) Authorizes an entity to which this section applies that is required to complete enhancements under this section to recover costs incurred in completing the enhancements from the reimbursement program established under Section 39.602.

SECTION 3. Requires the governor, the lieutenant governor, and the speaker of the house of representatives to appoint members to the committee, as required by this Act, as soon as practicable after the effective date of this Act, but not later than the 120th day after the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2017.