

BILL ANALYSIS

Senate Research Center
85R25041 GRM-D

C.S.S.B. 83
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Business & Commerce
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Committee Report (Substituted)

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. (Original Author's / Sponsor's Statement of Intent)

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

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

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 coordinate with the Public Safety Commission to assess the threat to the United States from Electromagnetic Pulse (EMP) Attack, the United States Department of Defense, the United States Department of Energy, and the United States Department of Homeland Security

to apply research and information on electromagnetic, geomagnetic, physical, and cyber-attack threats.

(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 or other employee of the Texas Department of Public Safety the chief determines could make valuable contributions to the development of the plan under Subsection (d)(4) (relating to requiring the task force to develop a comprehensive threat protection and recovery plan for energy critical infrastructure and vital utility facilities of this state).

(d) Requires the task force to take certain enumerated steps to increase security and awareness regarding electromagnetic, geomagnetic, physical, 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). Requires each member of the task force and any third-party individual with access to information under this section to sign a nondisclosure agreement stating that the individual will not disclose to the public any sensitive or identifiable information related to grid security measures or plans.

(f) Requires the task force, not later than July 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 consider implementation of 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, physical, 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 as funding becomes available.

(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. DEFINITIONS. Defines "committee" and "energy critical infrastructure."

Sec. 39.602. INFORMATION RELATED TO GRID SECURITY NONDISCLOSURE.

(a) Provides that information related to the security of the electric grid is confidential and is not subject to disclosure under Chapter 552, Government Code.

(b) Requires each individual with access to information related to the security of the electric grid under this subchapter to sign a nondisclosure agreement stating that the individual will not disclose to the public any sensitive or identifiable information related to grid security measures or plans.

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 review the findings of the task force.

(e) 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.

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

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

(h) Requires the committee, not later than September 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.

(i) 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.

(j) Prohibits a member of the committee from being a member or employee of the North American Electric Reliability Corporation, the Federal Energy Regulatory Commission, or the Electric Power Research Institute.

(k) Provides that this section expires January 1, 2019.

Sec. 39.604. GRID PROTECTION. (a) Provides that this section applies to a transmission and distribution utility, an owner of a power generation facility, an electric cooperative operating in the Electric Reliability Council of Texas (ERCOT), a river authority operating in ERCOT, and a municipally owned utility operating in ERCOT.

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

(c) Provides that this section is not intended to penalize electric providers in this state. Authorizes the legislature, if vulnerabilities in the security of the electric grid in this state are identified through the process established in this section and the legislature, in consultation with the governor, determines enhancements to energy critical infrastructure of the electric grid are necessary, to determine whether enhancements will be funded by appropriating general revenue of this

state, by a new ratepayer cost recovery mechanism, or by a combination of those methods.

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.