

By: Money

H.B. No. 4363

A BILL TO BE ENTITLED

AN ACT

relating to battery energy storage facilities; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 35, Utilities Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. BATTERY ENERGY STORAGE FACILITY PERMIT

Sec. 35.201. DEFINITIONS; APPLICABILITY. (a) In this subchapter:

(1) "Battery energy storage facility" includes lithium ion battery energy storage and a facility or equipment used to support the operation of lithium ion battery energy storage, including an underground or aboveground electrical transmission or communications line, or an electric transformer.

(2) "Permit holder" means a person who holds a permit issued under this subchapter.

(3) "Person" includes an electric cooperative and a municipally owned utility.

(b) This subchapter applies only to a battery energy storage facility that is intended to be used to sell energy or ancillary services at wholesale.

Sec. 35.202. PERMIT REQUIRED. (a) A person may not interconnect a battery energy storage facility to a transmission facility unless the person holds a permit to operate a battery energy storage facility issued by the commission under this

1 subchapter.

2 (b) The commission by rule shall require each permitted
3 battery energy storage facility to comply with the rules adopted by
4 the state fire marshal under Section 35.203.

5 (c) The commission by rule shall adopt a fee to be imposed on
6 each permit applicant to cover the commission's costs associated
7 with implementing this subchapter.

8 (d) For purposes of this subchapter:

9 (1) a provision of Subchapter B or E, Chapter 14, that
10 authorizes the commission to regulate a public utility also applies
11 to a person required to obtain a permit under this section,
12 including an electric cooperative or a municipally owned utility;
13 and

14 (2) a reference in Chapter 15 to a person includes a
15 person required to obtain a permit under this section, including an
16 electric cooperative or a municipally owned utility.

17 Sec. 35.203. FIRE SAFETY STANDARDS FOR BATTERY ENERGY
18 STORAGE FACILITIES. (a) The state fire marshal shall adopt and
19 periodically update fire safety standards for a battery energy
20 storage facility operating under a permit issued under this
21 subchapter. The standards must include:

22 (1) minimum distances between battery energy storage
23 facilities and buildings and critical infrastructure;

24 (2) requirements for fireproof barriers to protect
25 other structures and vegetation;

26 (3) minimum standards related to the installation,
27 design, and maintenance of battery energy storage facilities and

1 related electrical equipment, including ventilation and cooling;
2 (4) fire hazard management standards, including
3 standards for emergency shutdown systems;
4 (5) lithium ion battery safety standards, including
5 standards for specialized fire suppression equipment; and
6 (6) standards for signage near a battery energy
7 storage facility.

8 (b) Each permit holder that owns or operates a permitted
9 battery energy storage facility shall ensure that the facility
10 meets the fire safety standards adopted by the state fire marshal
11 under Subsection (a) at the time of interconnection.

12 Sec. 35.204. EMERGENCY OPERATIONS PLANS FOR BATTERY ENERGY
13 STORAGE FACILITIES. (a) A permit holder shall collaborate with
14 local fire departments to develop a site-specific emergency
15 operations plan for each battery energy storage facility owned or
16 operated by the permit holder, including emergency response and
17 communications protocols for an equipment failure incident.

18 (b) The permit holder shall offer to local fire departments
19 training regarding responding to a fire at the battery energy
20 storage facility, including specialized training for hazards
21 related to characteristics of lithium ion battery fires and related
22 to responding to a fire at a battery energy storage facility that is
23 integrated with a solar power generation facility.

24 Sec. 35.205. FIRE DEPARTMENT RESPONSE FUNDING. (a) An
25 applicant for a permit under this subchapter shall obtain from the
26 fire department, as defined by Section 419.021, Government Code,
27 volunteer fire department, fire marshal, or other first responder

1 entity that may reasonably be expected to be the primary first
2 responder to a fire at the location of the battery energy storage
3 facility an estimate of the expenses required for the first
4 responder entity to adequately prepare to respond to a fire at the
5 battery energy storage facility during the first year after the
6 date the facility is installed.

7 (b) The estimated amount of expenses under Subsection (a)
8 may not include expenses the first responder entity would incur
9 regardless of the existence of the battery energy storage facility.

10 (c) The commission shall require the applicant to deposit
11 with the comptroller under Subsection (d) an amount of money the
12 commission determines is sufficient to compensate the first
13 responder entity for expenses required for the first responder
14 entity to adequately prepare to respond to a fire at the battery
15 energy storage facility during the first year after the date the
16 facility is installed. The applicant shall provide the estimate
17 described by Subsection (a) to the commission, who shall consider
18 the estimate in determining the amount of money required to be
19 deposited under Subsection (d).

20 (d) The comptroller shall deposit money received from an
21 applicant for the purposes of this section in a separate suspense
22 account to be held in trust for the first responder entity. The
23 suspense account is outside the state treasury and the comptroller
24 may make a payment authorized by this subchapter without the
25 necessity of an appropriation.

26 (e) After the commission approves the permit application:

27 (1) the commission shall notify the comptroller of the

1 approval; and

2 (2) the comptroller shall pay to the first responder
3 entity the amount deposited by the permit applicant for that first
4 responder entity.

5 Sec. 35.206. PUBLIC AWARENESS CAMPAIGN. A permit holder
6 shall develop a public awareness campaign to educate the public in
7 the area of the permitted battery energy storage facility about
8 specific risks and safety measures related to the battery energy
9 storage facility.

10 SECTION 2. The changes in law made by this Act apply only to
11 a battery energy storage facility interconnected on or after the
12 effective date of this Act.

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