

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Domestic Security Committee

BILL: SB 2386

SPONSOR: Senator Wilson

SUBJECT: Alternative Power/Gasoline Stations

DATE: March 16, 2006

REVISED: 03/21/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>DS</u>	Fav/ 1 amendment
2.	<u> </u>	<u> </u>	<u>CM</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>CA</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u>TA</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill requires that each retail gasoline station that offers motor fuel to the public must be pre-wired and capable of using alternative generated power to operate in the event of a power disruption following a major disaster.

The bill requires the Division of Emergency Management to complete a statewide inventory of each power generator located in the state capable of operation during a major disaster. The inventory must identify certain information such as location, numbers, ownership, and point of contact information on persons having authority to release the generator for public use.

The bill also requires the Division of Emergency Management to implement a program to lease power generators to retail gasoline stations following a major disaster.

This bill creates section 526.155 of the Florida Statutes.

II. Present Situation:

During the 2004 hurricane season, Florida was affected by storm related electrical power outages and concerns about fuel availability. In August and September of 2005, Hurricanes Katrina and Rita severely damaged portions of the nation's fuel production infrastructure. The immediate

impact resulted in spot shortages and per gallon prices stabilizing at close to \$3 per gallon. Since Florida receives between 92-98% of its motor fuel supply by ship or barge¹, two-thirds of which comes from U. S. supply origins², damage to the Gulf Coast production infrastructure and disruption of the Gulf shipping lanes gave Florida further cause for concern. As Hurricane Wilma approached on October 22, 2005, four Gulf Coast refineries, 62% of Gulf oil production, and 52% of Gulf natural gas production remained closed.³

Florida, however, was able to seek additional sources of product and combined with conservation measures, experienced tight supplies in some locations but no serious shortages prior to Wilma. Florida's fuel inventories on Saturday, October 22, 2005, stood at approximately 213 million gallons available in storage in the ports. Since Florida normally uses about 25 million gallons of motor fuel a day, the fuel in storage amounted to about nine days of supply available.⁴

Hurricane Wilma came ashore at approximately 6:30 AM on Monday, October 24, 2005, knocking out power to almost 3.5 million customers and forcing the temporary closure of South Florida ports including Port Everglades. Port Everglades supplies Florida with almost 40% of its transportation fuels.⁵

The fuel on hand immediately after Wilma's landfall remained at 9 days supply across the state with locations on I-4, I-95, I-75, and the Florida Turnpike reporting plenty of fuel.⁶

By mid-afternoon the next day, Tuesday, October 25, 2005, Port Everglades was reporting that it had generator capacity to off load fuel ships but the shipping channel was still closed to vessel traffic.

On Wednesday morning, October 26, 2005, Port Everglades reported partial power restoration with two days worth of normal fuel distribution supply in its tanks. That day, service plazas on the Florida Turnpike from Miami to Yeehaw Junction began to experience five plus mile back-ups requiring consumers to wait 3 to 5 hours in line for fuel. Sales were limited to \$20 worth per vehicle which purchased about seven and a half gallons of fuel. Further north, Orlando's gas stations, which had power and a supply chain fed via pipeline from the Port of Tampa, were operating normally. By the end of that day an estimated 2.65 million customers across Florida remained without power. As a conservation measure, South Florida retail outlets also began adopting the policy of limiting fuel purchases to \$20 at those stations capable of operations.⁷

By noon on Thursday, October 27, 2005, ExxonMobil reported 55 stations were operational in Palm Beach, Broward, and Miami-Dade counties. Amerada Hess reported providing generators for back-up power at their South Florida facilities. Palm Beach, Broward, and Miami-Dade counties have approximately 1,820 gas stations and some number of other company gas stations

¹ Source: Florida Department of Environmental Protection, 2005 Energy Forum.

² Source: Port Everglades Legislative Briefing, Jan. 18, 2006.

³ Florida SERT Hurricane Wilma Situation Report No. 8, October 22, 2005.

⁴ Id.

⁵ Source: Port Everglades Legislative Briefing, Jan. 18, 2006.

⁶ Florida SERT Hurricane Wilma Situation Report No. 14, October 24, 2005.

⁷ Florida SERT Hurricane Wilma Situation Report No. 20, October 26, 2005.

were likely open but not listed in the State Emergency Response Situation Reports. Fuel available to the public was a problem.⁸ Fuel in storage in the ports statewide reflected an approximate seven day supply with replenishment priority given to emergency crews and first responders. Retail gas stations with available power along major transportation corridors and in major metropolitan areas were also given replenishment priority to support the needs of returning evacuees.⁹ By the end of the day, 2.1 million customers still remained without power.

Throughout the Hurricane Wilma recovery, bulk fuel inventories were sufficient to meet essential needs. The problem Floridians encountered was delivery at the local retail level. Fuel in local retail outlet tanks was for the most part inaccessible without the electrical power to dispense it. Media reports showed long lines at South Florida gas stations until power was gradually restored. By November 1, 2005 over 700,000 customers still were without power.¹⁰

Chapter 252, F.S., provides for Emergency Management in the State of Florida. Section 252.35, F.S., provides for emergency management powers for the Division of Emergency Management. Included in this section are provisions calling for the establishment of strategies for ensuring sufficient, reasonably priced fueling locations along evacuations routes.

Section 252.38, F.S., provides for emergency management powers of political subdivisions. Counties are required to establish an emergency management agency and develop and maintain an emergency management plan and program consistent with the state emergency management plan and program.

Section 526.303, F.S., provides definitions for the sale of liquid fuels including the definitions for motor fuels, retail outlet, sale, and terminal facility.

III. Effect of Proposed Changes:

Section 1. This bill requires that each retail gasoline station that offers motor fuel to the public must be pre-wired and capable of using alternative generated power to operate in the event of a power disruption following a major disaster. Installation of the necessary components for such a capability must be done by an electrician licensed in this state.

The required alternative generated power capability applies to any self-service or full-service gasoline station. The requirement also applies to a retail gasoline station that is on the grounds of, or owned by, another retail establishment that is not engaged in the business of selling motor fuel.

The bill provides an exemption for automobile dealers, persons who operate a fleet of motor vehicles, or persons who sell fuel exclusively to a fleet of motor vehicles.

⁸ Florida SERT Hurricane Wilma Situation Report No. 23, October 27, 2005.

⁹ Florida Emergency Operations Center Media Release, October 27, 2005

¹⁰ Florida Emergency Operations Center Media Release, November 1, 2005

Section 2. The bill requires the Division of Emergency Management to complete a statewide inventory of power generators capable of operation during a major disaster. The inventory must identify at a minimum:

- The location of each generator
- The number of generators stored at each specific location
- To whom the generators belong
- Whether the owner of the generator is a private enterprise or a governmental entity
- The primary purpose of the generator storage
- The names, addresses, and telephone numbers of persons having the authority to release the stored generators to the Division of Emergency Management or others

The bill also requires the Division of Emergency Management, by July 1, 2007, to implement a program to lease power generators to retail gasoline stations following a major disaster. The purpose of this leasing program is to ensure that retail gasoline stations can sell motor fuel to the public until the electric power transmission system is restored. The division must cooperate with private enterprise and governmental entities in:

- Locating available generators
- Establishing leasing procedures for owners leasing to retail gasoline stations
- Setting generator leasing fee schedules
- Developing transportation capacity for delivering generators where they are needed

The division is authorized to adopt rules to administer the generator-leasing system.

Section 3. This bill provides that regulation of alternate power sources at a motor fuel terminal facility, wholesaler, or retail sales outlet be preempted to the state.

Section 4. This bill provides for an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The effect of this bill may be to place the government sector in competition with the private sector in leasing electrical power generators.

To engineer and pre-wire a gas station in compliance with this bill, installing the appropriate generator wiring, coupling, and transfer switch is estimated by industry representatives to cost approximately \$4,000 per station. This cost would be borne by the station owner. There are approximately 9,200 gas stations in the state of which 10% are estimated to currently have the required capability. The estimated cost to the private sector is approximately \$33.1 million.

C. Government Sector Impact:

This bill requires that every electrical power generator located in the state be identified and inventoried by the Division of Emergency Management regardless of private or government ownership.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

Barcode 841138 by Domestic Security:

This is a strike everything amendment that creates section 526.143, Florida Statutes.

Newly constructed or substantially renovated motor fuel retail outlets receiving a certificate of occupancy after July 1, 2006 are required to have the capacity to operate with alternate generated power. Substantially renovated is defined as a renovation that increases the assessed value of the motor fuel retail outlet greater than 50 percent. A copy of the certificate of occupancy and a written statement of periodic testing and ensured operational capability are required to be maintained. Such documents must be furnished to the Division of Emergency Management and the director of the county emergency management agency upon request.

Existing motor fuel retail outlets that are within ½ mile proximate to an interstate highway or state or federally designated evacuation routes are required to have the capacity to operate with alternate generated power no later than December 31, 2006. Motor fuel retail outlets covered under this requirement are designated according to the following criteria:

- County populations having 300,000 or more residents – Stations having 16 or more fueling positions
- County populations having 100,000 or more residents but fewer than 300,000 – Stations having 12 or more fueling positions
- County populations having less than 100,000 residents – Stations having 8 or more fueling positions¹¹

Installation of the required wiring and transfer switches necessary to provide alternate operational capacity must be performed by a certified electrical contractor. A copy of the documentation of such installation and a written statement of periodic testing and ensured operational capability are required to be maintained by the outlet or its corporate headquarters. Such documents must be furnished to the Division of Emergency Management and the director of the county emergency management agency upon request.

The amendment specifies that the requirement applies to any self-service, full-service, or combination thereof, motor fuel retail outlet regardless of its location on the grounds of or ownership by a business not engaged primarily in the selling of motor fuel.

The amendment provides an exemption for automobile dealers, persons who operate a fleet of motor vehicles, or persons who sell fuel exclusively to a fleet of motor vehicles.

The amendment requires the Division of Emergency Management to complete an inventory of generators owned by the state and local governments which are capable of operating during a major disaster. The Division shall report the inventory by January 1, 2007 and shall maintain it thereafter. The Division may keep a list of private entities, along with contact information, which offer generators for sale or lease. Such a list shall be available to the public.

¹¹ Note - A fueling position is considered to be the place where a single vehicle may be refueled. Fuel dispensers where vehicles may be fueled simultaneously on either side of the stand are considered to be two fueling positions.

The amendment provides that regulation of alternate power sources at a motor fuel terminal facility, wholesaler, or retail sales outlet be preempted to the state.

The amendment provides for severability should any provision of the act be held invalid.

The amendment provides for an effective date of July 1, 2006.

The amendment reduces the number of motor fuel retail sales outlets that would be covered under the act, thus reducing the fiscal impact to the private sector.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
