HOUSE RESEARCH ORGANIZATION bill analysis | 5/8/97 | HB 99 | Gray, Oliveira, G. Lewis | (CSHB 99 by G. Lewis)

SUBJECT: Creating the state disaster management fund

COMMITTEE: Insurance — committee substitute recommended

VOTE: 5 ayes — Van de Putte, Bonnen, Eiland, G. Lewis, Olivo

2 present, not voting — Smithee, Burnam

2 absent — Averitt, Wise

WITNESSES: (*On original version*):
For — Patrick McMacken, Emergency Management of Texas; Frank Walsh, American Red Cross; Thomas Watson, Emergency Management of Texas

Against — Vernon Jorgenson, Farmers Insurance Group Company; James Presnal, State Farm Insurance Company; Jay Thompson, Association of Fire and Casualty Companies of Texas

On — Kem Bennett; Tom Millwee and E.C. “Butch” Smith, Texas Department of Public Safety; Bobby Young, Texas Forest Service

BACKGROUND: Under the Texas Disaster Act, state disaster relief programs are the responsibility of the Governor's Office and administered by the Department of Public Safety (DPS), with funding by specific appropriation to the disaster contingency fund. DPS spent $11 million on disaster relief efforts in 1995 and $14 million in 1996. The Governor's Office has requested $8 million for the upcoming biennium for disaster relief.

A disaster is defined as the occurrence of imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, other public calamity requiring emergency action, or an energy emergency.

DIGEST: CSHB 99 would create a disaster management fund within the state treasury and authorize its funding through an assessment of one-thirtieth of one percent of gross receipts of all public utilities ultimately serving the consumer, including interexchange telecommunications carriers and municipally owned electric utilities. Utilities would be required to include this assessment in utility rates, but could not separately state the additional assessment on consumers' bills. The contingency fund would be abolished and all unencumbered credits transferred to the disaster management fund.

The governor could use the funds to provide assistance to individuals, families and political subdivisions when a disaster was not declared by the president or when the president did not grant assistance for certain kinds of assistance. Allowable uses would include:

- Up to $5,000 to individuals or families for housing repairs, repair or replacement of personal property, transportation expenses, and funeral, dental, medical and other analogous expenses considered necessary to meet a serious need.

- Funds to political subdivisions for expenses incurred in clearing, removing, and disposing of debris.

- Funds to political subdivisions for repairing or replacing damaged highways or streets or water control structures if no other means of financial assistance was available. The governor could withdraw assistance for repair or replacement work performed more than a year after the disaster.

- Up to 50 percent of the cost of hazard mitigation measures that the governor determined to be cost effective and that would substantially reduce the risk of future damage. The total amount provided for mitigation costs could not exceed 20 percent of the grants made for one disaster.

The disaster management fund could be used to provide money for emergency management and disaster relief for costs that exceeded regular appropriations for this purpose to state and local agencies. The governor also could authorize the following use of the disaster management fund: 10

percent for administrative expenses of the Division of Emergency Management in the Governor's Office, 15 percent for emergency management training; four percent for the cost of implementing a statewide notification system; and other payments for expenses involved in helping political subdivisions to develop mutual aid agreements.

CSHB 99 would add terrorist activity to the definition of a disaster.

CSHB 99 would take effect September 1, 1997. The assessment on utilities would begin January 1, 1998.

SUPPORTERS SAY:

CSHB 99 would ensure that, for just a few dollars per person per year, the state would be prepared to respond to disasters. The current disaster relief program is severely underfunded and reliant on legislative appropriation. Currently, Texas has less than $800,000 available to respond to a wide range of disasters. This is not even close to what the state would need to qualify for federal matching funds if a major disaster were to occur, much less to provide state assistance for disasters that do not qualify for federal aid. Of the $11 million Texas paid for disaster relief in 1995, 85 percent went to pay the state's share of federal aid to victims of the South Texas floods. In 1996, $10 million of the $14 million was used to pay the state's share of federal disaster relief for wildfire control. These single incidences prove that Texas has to provide more than haphazard funding for disasters.

CSHB 99 would create a mechanism by which Texas could generate an estimated $11-$12 million per year in disaster relief funding, which would enable the state to respond to approximately ten disasters per year, including those that do not qualify for federal assistance. Rather than scrambling for the money to adequately respond to disasters, the state should plan ahead for disasters and establish a stable, reliable source of funding.

Utility bills offer precisely the sort of stable and widespread revenue source required for such a fund. The bill would specify that utility companies could not identify the assessment as a separate charge, since this could increase administrative expenses for them as consumers called in to inquire about the item. Allowing utilities to pass the assessment directly on to consumers would ensure that the assessment would not be considered a rate element, which would be subject to PUC approval.

CSHB 99 would allow the governor to authorize up to $5,000 in aid for individuals and families devastated by a flood, tornado, or other disaster. Most of the people who would qualify for these funds are indigent and have no place else to turn for assistance. The bill would also authorize the governor to provide funds for the repair of highways and streets and the cleanup of debris. These costs are usually not covered by insurance, and are often too high for a small community to cover.

OPPONENTS SAY:

CSHB 99 would require Texas utility consumers to pay for a statewide disaster management program without knowledge of what they are paying for. Utilities should be required to tell consumers about the additional assessment; consumers could call the disaster management program to get more information.

CSHB 99 would authorize such broad assistance and for so many different kinds of disasters that the fund could easily be depleted. The fund should provide more limited assistance to ensure that money was available in the event of a major disaster.

NOTES:

The original version of the bill included an insurance surcharge of $2.00 per homeowners policy, $4.00 for commercial property lines, and $1.00 for auto policies rather than the assessment on utility customers.

The fiscal note estimated the new disaster management fund would gain $22.62 million in fiscal 1998-99.

The companion bill, SB 1456 by Lucio, has been referred to the Senate Finance Committee.