

SUBJECT: Expanding TDH authority to respond to public health emergency

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Capelo, Laubenberg, Truitt, Dawson, McReynolds, Naishtat, Taylor, Zedler

0 nays

1 absent — Coleman

WITNESSES: For — None

Against — Dawn Richardson, Parents Requesting Open Vaccine Education

BACKGROUND: The State Emergency Management Plan designates the Texas Department of Health (TDH) as the lead agency in a health emergency, responsible for detecting and investigating disease outbreaks and communicating with partner agencies. Because TDH has responded often in the past to natural biological threats, such as meningitis and salmonella, procedures for responding to an outbreak are in place.

DIGEST: CSHB 2988 would authorize the governor, in consultation with the public health commissioner, to declare a public health emergency, defined as an immediate threat from a communicable disease that poses a substantial risk of death or serious long-term disability to many people. The declaration could be renewed once for an additional 30 days and thereafter if the governor that found the threat still existed and if the extension was recommended by the health commissioner and approved by the House speaker, lieutenant governor, and chief justice of the Supreme Court.

The bill would amend the Communicable Disease Prevention and Control Act (Health and Safety Code, ch. 81) to allow TDH to delegate authority to local health departments. It would authorize TDH, rather than the Board of Health, to make rules about immunization. It also would broaden TDH's authority to obtain medical and health information during an emergency. Health records could be released, but only if needed to protect the health or life of the person

whose records were released. Records that were confidential or privileged would remain so in TDH's possession.

Evidence collected by TDH in the course of investigating a public health emergency could not be used in a criminal proceeding except to assess a criminal penalty for violations of the control measures or for hampering an investigation.

TDH could take control measures against someone regardless of whether the department had issued a written order. It also could take control measures against a property by sending notice by personal delivery, as well as by registered or certified mail as in current law. If the property were infected with a communicable disease, TDH would not have to post notice. TDH could require the property owner to take control measures such as decontaminating, destroying, fencing, or otherwise sealing off the contaminated area.

The health commissioner could authorize a quarantine of an entire area, rather than of specific individuals, in case of an actual or suspected outbreak of a communicable disease. Any quarantine would have to be accomplished by the least restrictive means necessary. The department would have to offer written notice to and consult with each governing county or municipality as soon as practicable after the quarantine.

The bill would extend the prohibition on requiring an autopsy on a person whose death was caused by Asiatic cholera, bubonic plague, typhus fever, or smallpox to any communicable disease designated a public health emergency. TDH could designate cremation within 48 hours for communicable diseases other than the listed diseases in case of a public health emergency.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 2988 would enact changes recommended by the Senate Health and Human Services Interim Committee to improve Texas' preparedness for an outbreak of communicable disease. It would streamline the state's health-care system's response to ensure that an outbreak could be contained as quickly as possible, while protecting the rights and freedoms of private citizens. With the recent outbreak of Severe Acute Respiratory Syndrome (SARS) and the expected resurgence of West Nile virus this summer, improvements in the

state's preparedness would be timely.

Shifting authority over immunization rules from the Board of Health to TDH should not concern parents. TDH's process for changing rules involves many opportunities for public input and review.

**OPPONENTS
SAY:**

The bill should not allow TDH, rather than the board, to make decisions about immunizations. The extra flexibility accorded to the agency in that portion of the bill would make it easier to change the rules regarding immunization, an area of concern for some parents.

NOTES:

The committee substitute would add the provisions regarding quarantine and renewal of the declaration of a public health emergency.

The companion bill, SB 355 by Janek, was scheduled for a public hearing by the Senate Infrastructure Development and Security Committee on May 12.