

- SUBJECT:** Revising the Critical Infrastructure Protection Council
- COMMITTEE:** Defense Affairs and State-Federal Relations — committee substitute recommended
- VOTE:** 7 ayes — Corte, Campbell, Berman, Herrero, Hodge, Leibowitz, P. Moreno
0 nays
2 absent — Merritt, Noriega
- WITNESSES:** For — Brandon Aghamalian, City of Fort Worth; Bill Mahler, WildWell Control Inc.; (*Registered, but did not testify*: Scott Forbes, Port of Houston Authority)
Against — None
On — Steve McCraw, Office of the Governor; (*Registered, but did not testify*: Glen Bason, Texas Department of State Health Services)
- BACKGROUND:** HB 9 by Flores, enacted in 2003 by the 78th Legislature, created Government Code, ch. 421, which requires the Office of the Governor to develop a statewide homeland security strategy as a complement to the federal homeland security strategy. The bill created the Critical Infrastructure Protection Council (CIPC) to serve as the primary advisory council to direct the governor on development and implementation of the homeland security strategy.
- CIPC is responsible for advising the governor on:
- the development and coordination of a statewide critical infrastructure protection strategy;
 - the implementation of the governor’s homeland security strategy by state and local agencies and provision of specific suggestions for helping those agencies implement the strategy; and

- other matters related to the planning, development, coordination, and implementation of initiatives to promote the governor's homeland security strategy.

The council comprises the governor or his designee and one representative from each of the 13 relevant state agencies. Council members cannot receive additional compensation for serving on the council but are entitled to reimbursement of reasonable expenses incurred.

CIPC must meet at least quarterly and must file an annual status report with the governor. The report must include the council's progress in developing and coordinating the infrastructure protection strategy, the status and funding of state programs designed to detect and deter homeland security emergencies, and recommendations for further homeland security actions and response.

The Office of the Governor is responsible for allocating homeland security funding to designated state and local agencies, as well as reviewing the appropriateness and compliance of the use of those funds. Agencies must provide annual reports to the governor detailing their compliance with the homeland security strategy.

DIGEST:

CSHB 3115 would change the structure and responsibilities of the CIPC. Additional duties for the council would include:

- assessing regional and statewide emergency response plans and establishing criteria for coordinating systems to improve communication and response to homeland security emergencies;
- developing a command, mobilization, and logistics process for the utilization of government and private response providers and experts; and
- establishing a plan for the potential use of additional response resources from the private sector to augment or maximize state, local, and regional response capabilities.

The bill would replace representation on the council by specific state agencies with two representatives — one from a state or local agency and the other from a private entity — appointed by the governor from each of the following sectors of the state:

- agriculture;
- finance;
- energy;
- commercial and governmental facilities;
- health;
- information resources;
- law enforcement;
- emergency management and first responders;
- ports and maritime industries;
- environment and water;
- transportation; and
- border issues.

The board also would include one representative from the Texas National Guard. Selected members would be required to demonstrate experience in their sectors and be involved directly in related policies, programs, or funding activities relevant to homeland security or infrastructure protection.

Under the bill, a council member could not receive compensation for service on CIPC. A member from state or local agency could, however, receive reimbursement from that agency for any expenses incurred in performing council duties.

CIPC would be required to develop recommendations and report annually to the governor, the lieutenant governor, and the speaker of the House on specific priorities related to homeland security strategy and threats that CIPC determined should be addressed immediately. The report also would contain an accounting for how money was being spent on homeland security activities to improve the overall security in each sector of the state.

The Office of the Governor periodically would perform threat-risk penetration tests, in cooperation with appropriate private and governmental entities, on certain facilities determined by the governor and CIPC to represent a significant threat to statewide critical infrastructure. These tests would be designed to measure the effectiveness of homeland security funding and identify necessary security, emergency response, and recovery enhancements.

Homeland security funding from the Office of the Governor also would be provided to defense base development authorities and private entities authorized to perform homeland security activities. Every public or private agency or entity receiving homeland security funding would be required to report annually on any expenditures made using the funding, any programs developed or implemented with the funding, and how the expenditures or programs improved the safety of the state against terrorist attack.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005. The governor would be required to make appointments to the council not later than December 1, 2005, until which time current CIPC members would continue to serve.

**SUPPORTERS
SAY:**

CSHB 3115 would improve the effectiveness of CIPC in developing and coordinating a statewide critical infrastructure protection strategy. Homeland security depends upon the security of the state's critical infrastructures — infrastructures so vital to Texas that their incapacity or destruction would have a debilitating impact on the state's physical security, economic security, and public health and safety. Critical infrastructure around the state rests primarily in the hands of local government and the private sector, including port industries, power plants, and buildings. However, none of these entities are represented on CIPC to advise the governor about strategy and response to attacks on infrastructures.

The bill would improve infrastructure protection by adding council members from public and private entities that represent state sectors crucial to homeland security. This appropriately would include the voices of critical infrastructure stakeholders in Texas on the CIPC. The resources, experience, and capabilities brought by local and private representatives would be vital in helping to formulate a homeland security plan and moving forward with emergency response preparations.

The bill would give priority attention to actions to reduce security threat risks that need to be addressed immediately, which is important as funding and resources dwindle in the future. Requiring performance measurements and milestone reporting also would ensure that the most effective programs continued to receive funding.

The definition of “critical structure” should be flexible and depend on the area being dealt with, whether it be local, state or federal. This would ensure that necessary critical infrastructures were included in plans for infrastructure protection.

OPPONENTS
SAY:

CSHB 3115 would provide for the selection of representatives from the emergency management and first responders sector. There is a very important distinction between these two entities. At the local level, emergency management typically includes fire department services. Because the area of emergency management has become more sophisticated in recent years, the perspective of an emergency management system concerning experience and capabilities probably would be different from the perspective of a fire department. The bill should clarify the meaning of these terms to ensure that all necessary perspectives were considered in selecting CIPC members.

The differences between larger and smaller cities should be considered when selecting council members. With 254 counties and 1,000 cities, Texas has a large and diverse pool of candidates. A representative from a large city might be an excellent choice from some perspectives, but may lack knowledge and experience about important homeland security issues in less populated areas. CSHB 3115 should outline a process for selecting council members that represents the state’s demographic diversity.

Identifying a critical infrastructure is difficult and imprecise. There are differences of opinion and a lack of communication between local, state, and federal authorities as to what is considered a critical infrastructure. CSHB 3115 should define what constitutes a critical infrastructure on each of these levels and then provide access to this information to all the necessary authorities.

NOTES:

The committee substitute differs from the original bill in that it would require the homeland security strategy to assess emergency response plans, develop a process for response providers, and establish plans for possible use of private sector response resources. It also would allow defense base development authorities and private entities to receive homeland security funding. The substitute would require the governor to

perform threat-risk penetration exercises on facilities to measure effectiveness of homeland security funding and identify needed enhancements.