

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1471
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Transportation & Homeland Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law reduces the vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from several types of emergency situations. However, the law does not address liability for borrowed equipment or other property between two political subdivisions or regional planning commissions that is used during emergency situations. As a result, many of these local governmental entities (entities) have to go through elaborate procedures and lengthy decision making processes which can significantly increase the response time in an emergency situation.

C.S.H.B. 1471 creates the Texas Statewide Mutual Aid System (system) in order to authorize jurisdictions to request aid from other jurisdictions whether they already have a mutual aid compact or not. The bill dictates the default contractual provisions that cover the legal rights and responsibilities of both the requesting and providing jurisdiction, enacts professional standards, and creates disaster districts to provide pre-disaster planning. The bill also provides that the current statewide Mutual Aid Program for Fire Emergencies is made permissive and secondary to the system.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. CERTAIN DISASTER RESPONSE PROCEDURES FOR POLITICAL
SUBDIVISIONS

SECTION 1.01. Amends Section 418.004, Government Code, by adding Subdivisions (10) through (14) to define “local government entity,” “mutual aid,” “requesting local government entity,” “responding local government entity,” and “system.”

SECTION 1.02. Amends Subchapter E, Chapter 418, Government Code, by adding Section 418.1015, as follows:

Sec. 418.1015. EMERGENCY MANAGEMENT DIRECTORS. (a) Designates the presiding officer of the governing body of an incorporated city or county or the chief administrative officer of a joint board as the emergency management director (director) for the officer’s political subdivision.

(b) Provides that a director serves as the governor’s designated agent in the administration and supervision of duties under this chapter. Authorizes a director to exercise the powers granted to the governor under this chapter on an appropriate local scale.

(c) Authorizes a director to designate a person as emergency management coordinator (coordinator). Requires the coordinator to serve as an assistant to the director for emergency management purposes.

SECTION 1.03. Amends Section 418.107(c), Government Code, to authorize a local government entity, rather than a political subdivision or regional planning commission, to render

mutual aid (aid) to other local government entities under aid agreements or the Texas Statewide Mutual Aid System (system). Makes conforming changes.

SECTION 1.04. Amends the heading of Section 418.109, Government Code, to read as follows:

Sec. 418.109. AUTHORITY TO RENDER MUTUAL AID ASSISTANCE.

SECTION 1.05. Amends Section 418.109(d), Government Code, to authorize a local government entity or volunteer group, rather than other local emergency service entities, to render aid to other local entities or volunteer groups on request. Deletes a requirement of the highest ranking officer of the entity from which assistance is requested to provide assistance in accordance with any aid plans developed by the emergency management council (council).

SECTION 1.06. Amends Section 418.110, Government Code, to authorize, rather than require, the division of emergency management in the office of the governor (division), in consultation with state fire protection agencies and the Texas Commission on Fire Protection, to develop a statewide aid program for fire emergencies. Provides that such a program does not alter the legal obligations of political subdivisions participating in the system and must be consistent with the state emergency management plan.

SECTION 1.07. Amends Chapter 418, Government Code, by adding Subchapter E-1, as follows:

SUBCHAPTER E-1. TEXAS STATEWIDE MUTUAL AID SYSTEM

Sec. 418.111. CREATION OF TEXAS STATEWIDE MUTUAL AID SYSTEM. (a) Establishes the system to provide integrated statewide aid response capacity between local government entities without a written aid agreement (agreement).

(b) Provides that an aid request is considered to be made under the system unless the requesting and responding entities are parties to an agreement in effect when the request is made.

(c) Provides that this subchapter does not affect an agreement between entities in effect on or before this subchapter's effective date or restrict entities in entering into an agreement as otherwise authorized by statute after this subchapter's effective date. Provides that, if a request is made between entities that are parties to an agreement, the terms of the agreement control the rights and obligations of the parties.

Sec. 418.112. ADMINISTRATION BY DIVISION. Requires the division to administer the system and encourage and assist political subdivisions in planning and implementing comprehensive all-hazards emergency management programs, including assisting in ensuring that the local emergency management plan of each subdivision adequately provides for the rendering and receipt of aid.

Sec. 418.113. DISASTER DISTRICTS. (a) Divides the state into disaster districts (districts) to engage in homeland security preparedness and response activities. Provides that the district boundaries coincide with the geographic boundaries of the state planning regions established by the governor under Chapter 391 (Regional Planning Commissions), Local Government Code.

(b) Establishes for each district a district committee composed of local representatives of state agencies, boards, and commissions and organized volunteer groups with representation on the emergency management council.

(c) Requires each district committee to coordinate with political subdivisions located in district to ensure state and federal emergency assets are available as needed for the most efficient and effective response possible.

(d) Requires the public safety director of the Department of Public Safety (DPS) to appoint a commanding officer from the Texas Highway Patrol as chair of each district committee. Sets forth the required duties of the chair.

(e) Requires representatives of the emergency management council assigned to each district to assist and provide guidance, counsel, and administrative support to their respective committee chairs.

Sec. 418.114. PROCEDURES FOR MUTUAL AID. (a) Requires the political subdivisions in each state planning region established by the governor under Chapter 391, Local Government Code, to agree on procedures specifying how aid will be provided when requested.

(b) Requires a copy of the procedures to be provided to the division and the district committee chair.

Sec. 418.115. REQUESTING AND PROVIDING MUTUAL AID ASSISTANCE. (a) Authorizes a request for aid assistance to be submitted verbally or in writing. Requires the request, if made verbally, to be confirmed in writing not later than the 30th day after the date the request was made.

(b) Authorizes the chief or highest ranking officer of a department or agency of a political subdivision to which a request is made, with the approval and consent of the presiding officer or officer's designee of the governing body of that subdivision, to provide the requested assistance in accordance with methods established by the political subdivision's governing body.

Sec. 418.1151. ASSESSMENT OF ABILITY TO RENDER ASSISTANCE. (a) Requires a local government entity to assess local resources to determine their availability to respond to an aid assistance request.

(b) Authorizes a responding local government entity to provide assistance to the extent it determines resources to be available. Provides that the entity is not required to provide assistance unless the entity determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.

Sec. 418.1152. SUPERVISION AND CONTROL. Sets forth the required conditions, protocols, and procedures for providing aid assistance under the system.

Sec. 418.1153. DURATION OF AID. Authorizes aid assistance under the system to continue until the services of the responding entity are no longer required or that entity determines that further assistance should not be provided.

Sec. 418.116. RIGHTS AND PRIVILEGES. (a) Entitles a person assigned, designated, or ordered to perform services by the governing body of a local government entity employing the person in response to a request under the system to the same compensation and benefits as though the services were rendered for that entity.

(b) Provides that the local government entity employing the person is responsible for the payment of compensation and benefits associated with the performance of services under the system.

Sec. 418.117. LICENSE PORTABILITY. Provides that a person, whose assistance is requested because the person holds a document evidencing qualification in a needed skill, is considered licensed, certified, permitted, or otherwise documented as such in the political subdivision in which the service is provided for as long as necessary, subject to limitations imposed by the chief executive officer or governing body of the requesting local government entity.

Sec. 418.118. REIMBURSEMENT OF COSTS: STATE REQUEST OR FEDERAL DISASTER DECLARATION. (a) Requires the division to administer all requests for reimbursement for costs associated with providing assistance requested by the division in response to a disaster declaration by the president of the United States. Requires such a request to be made in accordance with division procedures.

(b) Authorizes the division to directly request the provision of aid assistance from any local government entity in the system. Requires the state, from available state money, to reimburse the costs of providing assistance requested by the division to which a local government entity responds, including costs for personnel, operation, maintenance, damaged equipment, medical expenses, food, lodging, and transportation incurred by the responding local government entity. Requires the division to make reimbursements from the disaster contingency fund for eligible expenses to the extent that available state money is inadequate, if funds are made available from the fund.

(c) Requires the division, if federal money is available to fund the costs of aid assistance requested by the division, to claim the eligible costs of the responding local government entity on the division's grant application and disburse the federal share of the money to the responding local government entity, with sufficient state funds to cover the assistance costs incurred by the entity.

Sec. 418.1181. REIMBURSEMENT OF COSTS: REQUEST BY LOCAL GOVERNMENT ENTITY. (a) Requires a requesting local government entity to reimburse the costs of providing assistance to the responding entity, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation incurred by the responding entity in response to a request for reimbursement. Provides that entities with a mutual aid agreement when the request for aid assistance is made are subject to the agreement's terms of reimbursement, as provided by Section 418.111.

(b) Requires the requesting local government entity to pay the reimbursement from available funds and, if federal money is available to fund the costs of aid assistance requested by the entity, to claim the eligible costs of the responding local government entity on the requesting entity's subgrant application and disburse the federal share of the money to the responding local government entity, with sufficient state funds to cover the assistance costs incurred by the entity.

SECTION 1.08. Repealer: Sections 418.004(9) (definition of "regional planning commission") and 418.109(a), (b), and (c) (Mutual Aid), Government Code.

SECTION 1.09. Effective date: upon passage or September 1, 2007.