

BILL ANALYSIS

Senate Research Center
87R18212 SCL-D

C.S.S.B. 968
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Health & Human Services
4/14/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The COVID-19 pandemic brought to light various challenges and opportunities to improve the State's preparedness to address a public health disaster. Under current law, challenges remain to find the right balance between an effective public health response system and the rights of individuals.

C.S.S.B. 968 seeks to ensure that Texas is better prepared for a future public health emergency or disaster by improving the public health disaster response and coordination between state agencies. C.S.S.B. 968 also seeks to protect the rights of individuals during a public health crisis and provide the Department of State Health Services (DSHS) more timely medical information from physicians and healthcare professionals during a public health crisis.

C.S.S.B. 968 amends current law relating to public health disaster and public health emergency preparedness and response and provides a civil penalty.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 418, Government Code, by adding Section 418.0435, as follows:

Sec. 418.0435. PERSONAL PROTECTIVE EQUIPMENT CONTRACTS. (a) Requires the Texas Division of Emergency Management (TDEM) to enter into a contract with a manufacturer of personal protective equipment (PPE) that guarantees a set amount and stocked supply of the equipment for use during a public health disaster declared under Section 81.0813, Health and Safety Code.

(b) Authorizes TDEM to purchase PPE under a contract described by Subsection (a) only if TDEM determines the state's supply of PPE will be insufficient based on an evaluation of the PPE:

(1) held in reserve in this state; and

(2) supplied by or expected to be supplied by the federal government.

(c) Requires TDEM to pursue all available federal funding to cover the costs of PPE purchased under a contract described by Subsection (a).

SECTION 2. Amends the heading to Subtitle D, Title 2, Health and Safety Code, to read as follows:

SUBTITLE D. PREVENTION, CONTROL, AND REPORTS OF DISEASES; PUBLIC
HEALTH DISASTERS AND EMERGENCIES

SECTION 3. Amends the heading to Chapter 81, Health and Safety Code, to read as follows:

CHAPTER 81. COMMUNICABLE DISEASES; PUBLIC HEALTH DISASTERS; PUBLIC HEALTH EMERGENCIES

SECTION 4. Amends Section 81.003, Health and Safety Code, by amending Subdivision (7) and adding Subdivision (7-a) to redefine "public health disaster" and to define "public health emergency" for Chapter 81 (Communicable Diseases).

SECTION 5. Amends the heading to Subchapter B, Chapter 81, Health and Safety Code, to read as follows:

SUBCHAPTER B. PREVENTION AND PREPAREDNESS

SECTION 6. Amends Section 81.044, Health and Safety Code, by adding Subsection (b-1), as follows:

(b-1) Defines "cycle threshold value." Requires the executive commissioner of the Health and Human Services Commission to require that the reports contain the cycle threshold values and their reference ranges for the reportable disease that is the subject of the report.

SECTION 7. Amends Section 81.081, Health and Safety Code, as follows:

Sec. 81.081. DEPARTMENT'S DUTY. Provides that the Department of State Health Services (DSHS) is the preemptive authority for purposes of Chapter 81 and is required to coordinate statewide or regional efforts to protect public health. Requires DSHS to collaborate with local elected officials, including county and municipal officials, to prevent the spread of disease and protect the public health. Deletes existing text requiring DSHS to impose control measures to prevent the spread of disease in the exercise of its power to protect public health.

SECTION 8. Amends Subchapter E, Chapter 81, Health and Safety Code, by adding Sections 81.0813, 81.0814, and 81.0815, as follows:

Sec. 81.0813. AUTHORITY TO DECLARE PUBLIC HEALTH DISASTER OR ORDER PUBLIC HEALTH EMERGENCY. (a) Authorizes the commissioner of state health services (commissioner) to declare a statewide or regional public health disaster or order a statewide or regional public health emergency if the commissioner determines an occurrence or threat to public health is imminent. Authorizes the commissioner to declare a public health disaster only if the governor declares a state of disaster under Chapter 418 (Emergency Management), Government Code, for the occurrence or threat.

(b) Provides that, except as provided by Subsection (c), a public health disaster or public health emergency continues until the governor or commissioner terminates the disaster or emergency on a finding that the threat or danger has passed, or that the disaster or emergency has been managed to the extent emergency conditions no longer exist.

(c) Provides that a public health disaster or public health emergency expires on the 30th day after the date the disaster or emergency is declared or ordered by the commissioner. Provides that a public health disaster or public health emergency may only be renewed by the legislature or a designated legislative oversight board that has been granted authority under a statute enacted by the legislature to renew a public health disaster declaration or public health emergency order. Prohibits each renewal period from exceeding 30 days.

(d) Requires that a declaration or order issued under this section include certain information regarding the description, scope, and nature of the disaster or emergency.

(e) Requires that a declaration or order issued under this section be disseminated promptly by means intended to bring its contents to the public's attention. Requires that a statewide or regional declaration or order be filed promptly with the Office of the Governor and the secretary of state. Requires that a regional declaration or order be filed with the county clerk or municipal secretary in each area to which it applies, unless the circumstances attendant on the disaster or emergency prevent or impede the filing.

Sec. 81.0814. EXPERT PANEL. (a) Requires the commissioner, immediately after declaring a public health disaster or issuing a public health emergency order, to appoint an expert panel composed of five physicians and four other health care providers who have extensive experience involving treatments, therapeutics, and prophylactics for communicable diseases and other important knowledge and experience related to the disaster or order.

(b) Requires the commissioner to appoint a presiding officer for the expert panel.

(c) Requires the expert panel to meet during the public health disaster or emergency to provide recommendations on the disaster or emergency to the chief state epidemiologist appointed under Section 1001.0515.

(d) Provides that the expert panel is abolished on the termination of the public health disaster or emergency for which the panel was established.

Sec. 81.0815. FAILURE TO REPORT; CIVIL PENALTY. (a) Provides that a health care facility that fails to submit a report required by DSHS under a public health disaster or emergency is liable to this state for a civil penalty of not more than \$1,000 for each failure.

(b) Authorizes the attorney general, at the request of DSHS, to bring an action to collect a civil penalty imposed under this section.

SECTION 9. Amends Subchapter A, Chapter 161, Health and Safety Code, by adding Section 161.0085, as follows:

Sec. 161.0085. COVID-19 VACCINE PASSPORTS PROHIBITED. (a) Defines "COVID-19."

(b) Prohibits a governmental entity in Texas from issuing a vaccine passport, vaccine pass, or other standardized documentation to certify an individual's COVID-19 vaccination status to a third party for a purpose other than health care or otherwise publish or share any individual's COVID-19 immunization record or similar health information for a purpose other than health care.

(c) Prohibits a business in Texas from requiring a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the business. Provides that a business that fails to comply with this subsection is not eligible to receive a grant or enter into a contract payable with state funds.

(d) Requires each appropriate state agency, notwithstanding any other law, to ensure that businesses in Texas comply with Subsection (c) and authorizes each agency to require compliance with that subsection as a condition for a license, permit, or other state authorization necessary for conducting business in Texas.

(e) Prohibits this section from being construed to:

(1) restrict a business from implementing COVID-19 screening and infection control protocols in accordance with state and federal law to protect public health; or

(2) interfere with an individual's right to access the individual's personal health information under federal law.

SECTION 10. Amends Subchapter C, Chapter 1001, Health and Safety Code, by adding Section 1001.0515, as follows:

Sec. 1001.0515. OFFICE OF CHIEF STATE EPIDEMIOLOGIST. (a) Requires the commissioner to:

(1) establish an Office of Chief State Epidemiologist within DSHS to provide expertise in public health activities and policy in this state by evaluating epidemiologic, medical, and health care information, and by identifying pertinent research and evidence-based best practices; and

(2) appoint a physician licensed to practice medicine in this state as the chief state epidemiologist to administer the Office of Chief State Epidemiologist.

(b) Requires the chief state epidemiologist to:

(1) be board certified in a medical specialty; and

(2) have significant experience in public health and an advanced degree in public health, epidemiology, or a related field.

(c) Provides that the chief state epidemiologist serves as:

(1) the DSHS expert on epidemiological matters and on communicable and noncommunicable diseases; and

(2) DSHS's senior science representative and primary contact for the Centers for Disease Control and Prevention (CDC) and other federal agencies related to epidemiologic science and disease surveillance.

(d) Requires the chief state epidemiologist to report to the state operations center, under the direction of the chief of TDEM, during a declared public health disaster to provide expertise and support this state's response to the disaster.

(e) Authorizes the chief state epidemiologist to provide professional and scientific consultation regarding epidemiology and disease control, harmful exposure, and injury prevention to state agencies, health facilities, health service regions, local health authorities, local health departments, and other entities.

(f) Authorizes the chief state epidemiologist, notwithstanding any other law, to access information from DSHS to implement duties of the epidemiologist's office. Provides that reports, records, and information provided to the Office of Chief State Epidemiologist that relate to an epidemiologic or toxicologic investigation of human illness or conditions and of environmental exposure that are harmful or believed to be harmful to the public health are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code, and are prohibited from being released or made public on subpoena or otherwise, except for statistical purposes if released in a manner that prevents identification of any person.

SECTION 11. Repealer: Section 81.082(d) (relating to prohibiting the declaration of a public health disaster from continuing for more than 30 days) and (e) (relating to authorizing the

governor to terminate a declaration of a public health disaster at any time), Health and Safety Code.

SECTION 12. (a) Provides that in this section, "council" means the Preparedness Coordinating Council advisory committee (council) established by HHSC under Section 1001.035 (Advisory Committees), Health and Safety Code, for DSHS.

(b) Requires the council, under the direction of the emergency management council established by the governor under Section 418.013 (Emergency Management Council), Government Code, to conduct a study on this state's response to the 2019 novel coronavirus disease. Requires the council to examine the roles of DSHS, the Health and Human Services Commission, and TDEM relating to public health disaster and emergency planning and response efforts and determine the efficacy of the state emergency operations plan in appropriately identifying agency responsibilities. Authorizes the council to collaborate with an institution of higher education in this state to conduct the study.

(c) Requires the council, not later than December 1, 2022, to prepare and submit a written report to the governor, the lieutenant governor, the speaker of the Texas House of Representatives, and the members of the legislature on the results of the study conducted under Subsection (b) of this section. Requires that the report include recommendations for legislative improvements for public health disaster and public health emergency response and preparedness.

(d) Provides that this section expires September 1, 2023.

SECTION 13. (a) Provides that DSHS and the council are required to implement this Act only if the legislature appropriates money specifically from that purpose. Authorizes, but does not require DSHS and the council, if the legislature does not appropriate money specifically for that purpose, to implement this Act using other appropriations available for that purpose.

(b) Requires DSHS to use any available federal money to implement this Act.

SECTION 14. Effective date: upon passage or September 1, 2021.