

BILL ANALYSIS

Senate Research Center
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S.B. 11
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DIGEST AND PURPOSE

Following the terrorist attacks of September 11, 2001, Governor Perry commissioned the Texas Task Force on Homeland Security (task force). The task force included elected officials, health care officials, members of law enforcement, and private citizens appointed by the governor. The task force was charged to study matters relating to homeland security, including emergency preparedness and response; coordination among state, local, and federal agencies; and additional ways to improve the state's preparedness level and response capability. The task force identified several issues to be addressed by state and local entities.

As proposed, S.B. 11 requires the governor to develop a statewide homeland security strategy by September 1, 2004, that coordinates homeland security activities among and between local, state, and federal agencies and the private sector. S.B. 11 requires the state's homeland security strategy to complement the federal homeland security strategy and creates the Critical Infrastructure Protection Council (council) made up of members from a number of state agencies. This bill charges the council with advising the governor on issues related to homeland security strategy. S.B. 11 authorizes the governor to appoint special advisory committees, comprised of representatives of state and local agencies and nongovernmental entities, to address particular issues and provides for immunity from civil liability for volunteers and employees performing homeland security activities at the request of an official. S.B. 11 exempts council reports from public disclosure requirements. S.B. 11 also requires the office of the governor to allocate available grants and funds to state and local agencies that perform homeland security activities, and requires local governments and state agencies to report on their related funding and activities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the governor in SECTION 1 (Section 421.023, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4B, Government Code, by adding Chapter 421, as follows:

CHAPTER 421. HOMELAND SECURITY SUBCHAPTER A. GENERAL PROVISIONS

Sec. 421.001. DEFINITIONS. Defines "agency," "critical infrastructure," and "homeland security activity."

Sec. 421.002. HOMELAND SECURITY STRATEGY. (a) Requires the governor to develop a statewide homeland security strategy that improves the state's ability to address certain situations.

(b) Requires the governor's homeland security strategy to coordinate homeland security activities among and between local, state, and federal agencies and the private sector, and include specific plans for certain activities.

(c) Requires the governor's homeland security strategy to complement, and

operate in coordination with, the federal homeland security strategy.

[Reserves Sections 421.003-421.020 for expansion.]

SUBCHAPTER B. CRITICAL INFRASTRUCTURE PROTECTION COUNCIL

Sec. 421.021. MEMBERSHIP. (a) Provides that the Critical Infrastructure Protection Council (council) is composed of the governor's chief of staff, or the designee thereof, and one representative from each of certain entities, appointed by the single statewide elected or appointed governing officer or administrative head of each entity.

(b) Requires a person to be directly involved in the policies, programs, or funding activities of the appointing agency, office, or division that are relevant to homeland security or infrastructure protection to be eligible for appointment as a member of the council.

(c) Provides that a member of the council serves at the will of the governor and requires an appointing authority under this section to appoint a different member, at the request of the governor.

(d) Requires an officer or employee of a state or local agency who serves as a member of the council, or a special advisory committee under this subchapter, to perform the duties required by the council or special advisory committee as an additional duty of the member's office or employment.

Sec. 421.022. REIMBURSEMENT OF EXPENSES. Prohibits a member of the council from receiving compensation for service on the council, but provides that a member is entitled to reimbursement of reasonable expenses incurred through direct performance of official duties, including travel expenses, subject to any applicable limitations by general law or the General Appropriations Act.

Sec. 421.023. ADMINISTRATION. (a) Provides that the council is an advisory entity administered by the office of the governor.

(b) Authorizes the governor to adopt rules for the operation of the council, as necessary.

(c) Requires the governor to designate the presiding officer of the council.

(d) Requires the council to meet at the call of the governor and to meet at least once each quarter in a calendar year.

(e) Provides that the council is not subject to Chapter 2110, Government Code (State Agency Advisory Committees).

Sec. 421.024. DUTIES. Requires the council to advise the governor on certain issues.

Sec. 421.025. SPECIAL ADVISORY COMMITTEES. (a) Authorizes the governor to appoint one or more special advisory committees composed of representatives from state or local agencies or nongovernmental entities not represented on the council.

(b) Requires the governor to determine the number of members and qualifications for membership on a special advisory committee under this section.

(c) Requires a special advisory committee to assist the council in performing its duties.

(d) Provides that a special advisory committee is subject to Chapter 2110, Government Code (State Agency Advisory Committees), with the exception of

Section 2110.02, Government Code (Composition of Advisory Committees).

Sec. 421.026. REPORT. (a) Requires the council to submit an annual report, including certain progress and status reports and recommendations, to the governor.

(b) Provides that the report is not subject to disclosure under Chapter 552, Government Code (Public Information), and that Section 522.007(b), Government Code (Voluntary Disclosure of Certain Information When Disclosure Not Required), does not apply to the report.

[Reserves Sections 421.027-421.060 for expansion.]

SUBCHAPTER C. CIVIL LIABILITY FOR ACTS OR OMISSIONS

Sec. 421.061. IMMUNITY FROM CIVIL LIABILITY. (a) Provides that an officer or employee of a state or local agency performing a homeland security activity, or a volunteer performing a homeland security activity at the request or under the direction of an officer or employee of a state or local agency, is considered a member of the state military forces ordered into active service of the state by proper authority, and is considered to be discharging a duty under certain circumstances, for the purposes of Section 431.085, Government Code (Liability of Member).

(b) Provides that a person described by Subsection (a) is not civilly liable under Section 431.085, Government Code (Liability of Member), for the performance of a homeland security activity only if the person acted in good faith in the performance of the activity.

(c) Provides that this section does not make a person a member of the state military for any other purpose, including the application of the Uniform Code of Military Justice.

(d) Provides that this section does not affect the application of Section 431.085, Government Code (Liability of Member), on its own terms to a person who is a member of the state military forces ordered into active service of the state by proper authority under the law.

Sec. 421.062. LIABILITY UNDER INTERLOCAL CONTRACT. (a) Defines “interlocal contract.”

(b) Provides a state or local agency that furnishes a service related to a homeland security activity under an interlocal contract immunity from civil liability for any act or omission resulting in death, damage, or injury while acting under the interlocal contract, under certain circumstances.

[Reserves Sections 421.063-421.070 for expansion.]

SUBCHAPTER D. COOPERATION AND ASSISTANCE; FUNDING

Sec. 421.071. COOPERATION AND ASSISTANCE. Requires a state or local agency that performs a homeland security activity, or a nongovernmental entity that contracts with a state or local agency to perform a homeland security activity, to cooperate with and assist certain entities in the performance of their duties under this chapter and other state or federal law.

Sec. 421.072. FUNDING. (a) Requires the office of the governor to allocate available grants and other funding related to homeland security to state and local agencies that perform homeland security activities and to periodically review the grants and other funding for appropriateness and compliance.

(b) Requires state and local agencies that perform homeland security activities to inform the office of the governor about any actions taken relating to requests for revenue, grants, or other funding for homeland security activities or initiatives.

(c) Requires a state or local agency that receives a grant or other funding related to homeland security to provide an annual report to the office of the governor detailing the agency's compliance with the state homeland security strategy.

SECTION 2. (a) Requires the governor to develop a statewide homeland security strategy, as required by Section 421.002, Government Code (Homeland Security Strategy), as added by this Act, not later than September 1, 2004.

(b) Requires the head of each entity listed in Section 421.021, Government Code (Membership), as added by this Act, to appoint a representative to the Critical Infrastructure Protection Council, as required by that section, not later than December 1, 2003.

SECTION 3. Effective date: September 1, 2003.