

BILL ANALYSIS

S.B. 355
By: Janek
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

During the interim of the 77th Legislative Session, the Health and Human Service Committee assessed the public health preparedness in light of the terrorist attacks of September 11, 2001. Although the federal government appropriated \$59,749,890 to Texas to build the laboratories and infrastructure to prepare for any future health emergency, current laws have not been changed in order to build the infrastructure and delegate authority with a view towards effectively managing a major public health emergency. As proposed, this bill makes a number of changes to the way a public health emergency is to be declared and managed in this state, including guidelines for quarantine measures and the disposal of human remains. In addition, the bill authorizes the commissioner of public health to delegate local health departments authority consistent with that of TDH, and updates the language of the code.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subdivisions (2) and (7), Section 81.003, Health and Safety Code, as follows:

(2) Redefines "health authority."

(7) Defines "public health disaster." Deletes the definition for "regional director."

SECTION 2. Amends Section 81.004, Health and Safety Code, by adding Subsection (d), as follows:

(d) Authorizes a designee of the commissioner of public health (commissioner) to exercise a power or duty of the commissioner under this chapter except as otherwise required by law.

SECTION 3. Transfers Section 81.023(d), Health and Safety Code, to Subchapter A, Chapter 81, Health and Safety Code, redesignates it as Section 81.011, Health and Safety Code, and amends it to read as follows:

Sec. 81.011. New Heading: REQUEST FOR INFORMATION. Authorizes the Texas Department of Health (TDH), rather than the Texas Board of Health (TBH), to request certain information from Texas Department of Public Safety (DPS) driver's license records for the purpose of notifying individuals that they need certain immunizations or services for suspected communicable diseases in times of emergency or epidemic declared by the commissioner.

SECTION 4. Amends Section 81.041, Health and Safety Code, by adding Subsection (f), to authorize the commissioner, in a public health disaster, to require reports of communicable diseases or other health conditions from providers without TBH rule or action. Requires the commissioner to issue with a report required under this section appropriate instructions for compliance.

SECTION 5. Amends Section 81.042(a), Health and Safety Code, to require a report under Subsection (b), (c), or (d) to be made only to the local health authority, rather than providing the

alternative of reporting to the regional director in the event there is no local health authority.

SECTION 6. Amends Section 81.043, Health and Safety Code, as follows:

Sec. 81.043. New heading: RECORDS AND REPORTS OF HEALTH AUTHORITY. Requires each health authority, rather than each health authority or regional director, to keep a record of each case of a reportable disease reported to the authority, and to report such diseases to TDH's central offices at certain intervals. Makes conforming changes.

SECTION 7. Amends Section 81.046, Health and Safety Code, by amending Subsection (b) and adding Subsection (f), as follows:

(b) Provides that Subsection (f), in addition to Subsections (c) and (d), provides an exception to the provision that certain information relating to cases or suspected cases of diseases or health conditions are not public information under Chapter 522, Government Code, and may not be released or made public on subpoena or otherwise.

(f) Authorizes the release of certain information relating to cases or suspected cases of diseases or health conditions, during a public health emergency, to law enforcement personnel for the sole purpose of protecting the health or life of the person identified by the information. Provides that only the minimum necessary information may be released as determined by the health authority or TDH.

SECTION 8. Amends Section 81.064, Health and Safety Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Authorizes only TDH or a health authority, rather than the commissioner, the commissioner's designee, a health authority, or a health authority's designee, to enter and inspect a public place in the performance of that person's duty to prevent or control a communicable disease's entry into, or spread within, this state under this chapter or rules of TBH.

(c) Prohibits evidence gathered during an inspection by TDH or a health authority from being used in a criminal proceeding other than a proceeding to assess a criminal penalty under this chapter.

SECTION 9. Amends Section 81.065, Health and Safety Code, by creating Subsection (a) from existing text and adding Subsection (b) to prohibit evidence gathered during an entry by the commissioner, TDH, or health authority under this section from being used in a criminal proceeding other than a proceeding to assess a criminal penalty under this chapter.

SECTION 10. Amends Section 81.066(a), Health and Safety Code, to provide that a person commits an offense if the person knowingly conceals or attempts to conceal from TDH, rather than TBH, certain facts regarding that person's condition that may threaten public health.

SECTION 11. Amends Section 81.067(a), Health and Safety Code, to provide that a person commits an offense if the person knowingly conceals, removes, or disposes of one of certain items that is the subject of an investigation under this chapter by TDH, rather than TBH.

SECTION 12. Amends Section 81.068, Health and Safety Code, as follows:

Sec. 81.068. New heading: REFUSING ENTRY OR INSPECTION; CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person knowingly refuses or attempts to refuse entry to TDH, rather than TBH, on presentation of a valid

search warrant to investigate on premises controlled by the person or the person's agent.

(b) Provides that a person commits an offense if the person knowingly refuses or attempts to refuse inspection under Section 81.064 or entry or access under Section 81.065.

(c) Created from existing Subsection (b).

SECTION 13. Amends Section 81.082, Health and Safety Code, as follows:

(a) Grants TDH certain powers previously granted to TBH.

(b) Grants TDH certain powers previously granted to TBH.

(c) Provides control measures by imposed on an individual, animal, or object as appropriate.

(d) Authorizes a declaration of public health disaster to continue for not more than 30 days. Authorizes a public health disaster to be renewed one time by the commissioner for an additional 30 days.

(e) Authorizes the governor to terminate a declaration of a public health disaster at any time.

(f) Redesignated from existing Subsection (d), providing a list on control measures.

SECTION 14. Amends Section 81.083(e), Health and Safety Code, to add that an individual may be subject to court orders under Subchapter G if the individual is infected or reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health and the individual does not comply with a TDH or health authority order, or a public health disaster exists, regardless of whether TDH or a health authority has issued a written order and the individual has indicated that the individual will not voluntarily comply with control measures.

SECTION 15. Amends Section 81.084, Health and Safety Code, by amending Subsection (b) and adding Subsections (d-1) and (k), as follows:

(b) Requires TDH or a health authority to send notice of its action by personal delivery as an alternative to doing so by mail, and to post the notice in a place convenient to the public in the county courthouse, rather than on the county courthouse door, if the property is land or other property on the land. Provides that TDH or the health authority is not required to give notice under this subsection if the property is infected or contaminated as a result of a public health disaster.

(d-1) Authorizes TDH or a health authority to require a person who owns or controls property to impose control measures to decontaminate the property in a public health disaster, and, if that is not possible, further authorizes TDH or a health authority to order the person who owns or controls the property to:

(1) destroy property that is not land in a manner that decontaminates the property to prevent the spread of infection;

(2) securely fence the perimeter of the property or any part of the property that is contaminated, if the property is land; or

(3) securely seal off an infected or contaminated structure or other property on the

land to prevent entry until TDH or the health authority authorizes entry.

(k) Authorizes TDH or a health authority to impose additional control measures deemed necessary and appropriate to arrest, control, and eradicate the threat to public health during a public health disaster.

SECTION 16. Amends Section 81.085, Health and Safety Code, by amending Subsections (a), (b), (c), (e), (f), and (h), as follows:

(a) Authorizes the commissioner to impose an area quarantine if the commissioner has reasonable cause to believe that individuals or property in the area may be infected or contaminated with a communicable disease for a period necessary to determine whether an outbreak of such a disease has occurred.

(b) Requires a health authority to consult with, rather than obtain the approval of, TDH, rather than the commissioner and certain local authorities, before imposing an area quarantine. Requires a health authority that imposes an area quarantine to give written notice to and to consult with the governing body of each county and municipality in the health authority's jurisdiction that has territory in the affected area as soon as practicable.

(c) Authorizes TDH to impose additional disease control measures in a quarantine area as TDH deems necessary and appropriate to control the threat to public health. Makes conforming changes.

(e) Replaces Board with department.

(f) Replaces commissioner with department.

(h) Replaces board with department.

SECTION 17. Amends Sections 81.086(b) and (i), Health and Safety Code, as follows:

(b) Removes a provision requiring a carrier or conveyance's owner or operator to provide a statement on a form approved by TBH including information required by board rule.

(i) Authorizes TDH or a health authority to investigate and, if necessary, hospitalize the individual until TDH or a health authority approves the discharge under Section 81.083, rather than Section 81.084.

SECTION 18. Amends Section 81.088(a), Health and Safety Code, to provide that a person commits an offense if the person knowingly or intentionally removes or alters or attempts to remove or alter a quarantine notice or security item in a way that diminishes the item's effectiveness or if the person destroys such an item.

SECTION 19. Amends Section 81.089(a), Health and Safety Code, to provide that a person commits an offense if the person fails to notify TDH, rather than TBH, of certain actions before performing them.

SECTION 20. Amends Section 81.151(d), Health and Safety Code, to require a copy of written orders under Section 81.083 to be filed with an application only if applicable.

SECTION 21. Amends Section 81.152(c)(4), Health and Safety Code, by adding the language if applicable.

SECTION 22. Amends Section 81.162(a)(2), Health and Safety Code, by adding the language if

applicable.

SECTION 23. Amends Section 161.011, Health and Safety Code, to add a control measure under Chapter 81 as one of several items that a person must obtain in order to enter a private residence to conduct a health inspection.

SECTION 24. Amends Article 49.10(d), Code of Criminal Procedure, to prohibit a justice of the peace from ordering a person to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.

SECTION 25. Amends Sections 10 and 10a, Article 49.25, Code of Criminal Procedure, as follows:

Sec. 10. Provides that a medical examiner is not required to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.

Sec. 10a. Authorizes the commissioner to designate other communicable diseases for which cremation within 48 hours of death is authorized in a public health disaster.

SECTION 26. Effective date: September 1, 2003.

EFFECTIVE DATE

September 1, 2003.