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H.B. No. 9

A BILL TO BE ENTITLED

AN ACT

relating to homeland security.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 4, Government Code, is amended
by adding Chapter 421 to read as follows:

CHAPTER 421. HOMELAND SECURITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 421.001. DEFINITIONS. In this chapter:

(1) "Agency" means any governmental entity.

(2) "Critical infrastructure" includes all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation.

(3) "Homeland security activity" means any activity related to the prevention or discovery of, response to, or recovery from a terrorist attack, natural or man-made disaster, hostile military or paramilitary action, or extraordinary law enforcement emergency.

Sec. 421.002. HOMELAND SECURITY STRATEGY. (a) The governor shall develop a statewide homeland security strategy that improves the state's ability to:

(1) detect and deter threats to homeland security;

(2) respond to homeland security emergencies; and

(3) recover from homeland security emergencies.

1 (b) The governor's homeland security strategy shall
2 coordinate homeland security activities among and between local,
3 state, and federal agencies and the private sector and must include
4 specific plans for:

5 (1) intelligence gathering and analysis;

6 (2) information sharing;

7 (3) reducing the state's vulnerability to homeland
8 security emergencies;

9 (4) protecting critical infrastructure;

10 (5) protecting the state's international border,
11 ports, and airports;

12 (6) detecting, deterring, and defending against
13 terrorism, including cyber-terrorism and biological, chemical, and
14 nuclear terrorism;

15 (7) positioning equipment, technology, and personnel
16 to improve the state's ability to respond to a homeland security
17 emergency;

18 (8) directing the Texas Infrastructure Protection
19 Communications Center and giving the center certain forms of
20 authority to implement the governor's homeland security strategy;
21 and

22 (9) using technological resources to:

23 (A) facilitate the interoperability of
24 government technological resources, including data, networks, and
25 applications;

26 (B) coordinate the warning and alert systems of
27 state and local agencies;

1 (C) incorporate multidisciplinary approaches to
2 homeland security; and

3 (D) improve the security of governmental and
4 private sector information technology and information resources.

5 (c) The governor's homeland security strategy must
6 complement and operate in coordination with the federal homeland
7 security strategy.

8 Sec. 421.003. CRIMINAL INTELLIGENCE INFORMATION. The
9 Department of Public Safety of the State of Texas is:

10 (1) the repository in this state for the collection of
11 multi-jurisdictional criminal intelligence information that is
12 about terrorist activities or otherwise related to homeland
13 security activities; and

14 (2) the state agency that has primary responsibility
15 to analyze and disseminate that information.

16 [Sections 421.004-421.020 reserved for expansion]

17 SUBCHAPTER B. CRITICAL INFRASTRUCTURE PROTECTION COUNCIL

18 Sec. 421.021. MEMBERSHIP. (a) The Critical Infrastructure
19 Protection Council is composed of the governor or the governor's
20 designee and one representative of each of the following entities,
21 appointed by the single statewide elected or appointed governing
22 officer or administrative head of the entity:

23 (1) office of the secretary of state;

24 (2) Department of Agriculture;

25 (3) office of the attorney general;

26 (4) General Land Office;

27 (5) Texas Animal Health Commission;

- 1 (6) state fire marshal's office;
2 (7) Texas Commission on Volunteerism and Community
3 Service;
4 (8) Commission on State Emergency Communications;
5 (9) Public Utility Commission of Texas;
6 (10) Texas Department of Health;
7 (11) Texas Department of Human Services;
8 (12) Department of Information Resources;
9 (13) Department of Public Safety of the State of
10 Texas;
11 (14) division of emergency management of the office of
12 the governor;
13 (15) Texas Department of Transportation;
14 (16) Texas Education Agency;
15 (17) Texas National Guard;
16 (18) Texas Commission on Environmental Quality;
17 (19) Parks and Wildlife Department; and
18 (20) Railroad Commission of Texas.

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

24 (c) A member of the council serves at the will of the
25 governor. At the request of the governor, an appointing authority
26 under this section shall appoint a different member.

27 (d) An officer or employee of a state or local agency who

1 serves as a member of the council or a special advisory committee
2 under this subchapter shall perform the duties required by the
3 council or special advisory committee as an additional duty of the
4 member's office or employment.

5 Sec. 421.022. REIMBURSEMENT OF EXPENSES. A member of the
6 council may not receive additional compensation for service on the
7 council but is entitled to reimbursement of reasonable expenses
8 incurred in direct performance of official duties, including travel
9 expenses incurred by the member while conducting the business of
10 the council, subject to any applicable limitation on reimbursement
11 provided by general law or the General Appropriations Act.

12 Sec. 421.023. ADMINISTRATION. (a) The council is an
13 advisory entity administered by the office of the governor.

14 (b) The governor may adopt rules as necessary for the
15 operation of the council.

16 (c) The governor shall designate the presiding officer of
17 the council.

18 (d) The council shall meet at the call of the governor and
19 shall meet at least once each quarter in a calendar year.

20 (e) The council is not subject to Chapter 2110.

21 Sec. 421.024. DUTIES. The council shall advise the
22 governor on:

23 (1) the development and coordination of a statewide
24 critical infrastructure protection strategy;

25 (2) the implementation of the governor's homeland
26 security strategy by state and local agencies and provide specific
27 suggestions for helping those agencies implement the strategy; and

1 (3) other matters related to the planning,
2 development, coordination, and implementation of initiatives to
3 promote the governor's homeland security strategy.

4 Sec. 421.025. SPECIAL ADVISORY COMMITTEES. (a) The
5 governor may appoint one or more special advisory committees
6 composed of representatives from state or local agencies or
7 nongovernmental entities not represented on the council.

8 (b) The governor shall determine the number of members and
9 qualifications for membership on a special advisory committee under
10 this section.

11 (c) A special advisory committee under this section shall
12 assist the council in performing its duties.

13 (d) A special advisory committee under this section is
14 subject to Chapter 2110, except that Section 2110.002 does not
15 apply.

16 Sec. 421.026. REPORT. The council shall annually submit to
17 the governor a report stating:

18 (1) the council's progress in developing and
19 coordinating a statewide critical infrastructure protection
20 strategy;

21 (2) the status and funding of state programs designed
22 to detect and deter homeland security emergencies, including the
23 status and funding of counterterrorism efforts;

24 (3) recommendations on actions to reduce threats to
25 homeland security, including threats related to terrorism; and

26 (4) recommendations for improving the alert,
27 response, and recovery capabilities of state and local agencies.

1 [Sections 421.027-421.060 reserved for expansion]

2 SUBCHAPTER C. CIVIL LIABILITY FOR ACTS OR OMISSIONS

3 Sec. 421.061. CIVIL LIABILITY. (a) An officer or employee
4 of a state or local agency performing a homeland security activity
5 or a volunteer performing a homeland security activity at the
6 request or under the direction of an officer or employee of a state
7 or local agency is considered for purposes of Section 431.085 to be
8 a member of the state military forces ordered into active service of
9 the state by proper authority and is considered to be discharging a
10 duty in that capacity if:

11 (1) the officer, employee, or volunteer is performing
12 the homeland security activity under procedures prescribed or
13 circumstances described for the purpose of this section in the
14 governor's homeland security strategy;

15 (2) in the case of a volunteer, the volunteer is acting
16 within the course and scope of the request or direction of the
17 officer or employee of the state or local agency; and

18 (3) in the case of an officer or employee of a state or
19 local agency, the officer or employee is acting within the course
20 and scope of the person's authority.

21 (b) A person described by Subsection (a) is not immune from
22 civil liability under Section 431.085 for damages resulting from
23 the performance of a homeland security activity if, under the
24 circumstances, the person's performance of the homeland security
25 activity was wilfully or wantonly negligent or done with conscious
26 indifference or reckless disregard for the safety of persons this
27 chapter is intended to protect.

1 (c) This section does not make a person a member of the state
2 military forces for any other purpose, including for purposes of
3 the application of the Uniform Code of Military Justice.

4 (d) This section does not affect the application of Section
5 431.085 on its own terms to a person who is a member of the state
6 military forces ordered into active service of the state by proper
7 authority under other law.

8 Sec. 421.062. LIABILITY UNDER INTERLOCAL CONTRACT. (a) In
9 this section, "interlocal contract" has the meaning assigned by
10 Section 791.003.

11 (b) A state or local agency that furnishes a service related
12 to a homeland security activity under an interlocal contract is
13 immune from civil liability for any act or omission resulting in
14 death, damage, or injury while acting under the interlocal contract
15 if:

16 (1) the interlocal contract expressly states that the
17 furnishing state or local agency is not responsible for any civil
18 liability that arises from the furnishing of a service under the
19 contract; and

20 (2) the state or local agency committed the act or
21 omission while acting in good faith and in the course and scope of
22 its functions to provide a service related to a homeland security
23 activity.

24 [Sections 421.063-421.070 reserved for expansion]

25 SUBCHAPTER D. COOPERATION AND ASSISTANCE; FUNDING

26 Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local
27 agency that performs a homeland security activity or a

1 nongovernmental entity that contracts with a state or local agency
2 to perform a homeland security activity shall cooperate with and
3 assist the office of the governor, the Critical Infrastructure
4 Protection Council, the Texas Infrastructure Protection
5 Communications Center, and the National Infrastructure Protection
6 Center in the performance of their duties under this chapter and
7 other state or federal law.

8 Sec. 421.072. FUNDING. (a) The office of the governor
9 shall:

10 (1) allocate available federal and state grants and
11 other funding related to homeland security to state and local
12 agencies that perform homeland security activities;

13 (2) periodically review the grants and other funding
14 for appropriateness and compliance; and

15 (3) designate a single state agency to administer all
16 grants and other funding to the state related to homeland security.

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

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

25 [Sections 421.073-421.080 reserved for expansion]

26 SUBCHAPTER E. TEXAS INFRASTRUCTURE PROTECTION

27 COMMUNICATIONS CENTER

1 Sec. 421.081. FACILITIES AND ADMINISTRATIVE SUPPORT. The
2 Department of Public Safety of the State of Texas shall provide
3 facilities and administrative support for the Texas Infrastructure
4 Protection Communications Center.

5 Sec. 421.082. POWERS AND DUTIES. (a) The center shall
6 serve as the state's primary entity for the planning, coordination,
7 and integration of government communications capabilities to help
8 implement the governor's homeland security strategy and ensure an
9 effective response in the event of a homeland security emergency.

10 (b) The center's duties include:

11 (1) promotion of emergency preparedness;

12 (2) receipt and analysis of information, assessment of
13 threats, and issuance of public warnings related to homeland
14 security emergencies; and

15 (3) authorization and facilitation of cooperative
16 efforts related to emergency response and recovery efforts in the
17 event of a homeland security emergency.

18 (c) In performing its duties under this section, the center
19 shall aim to:

20 (1) reduce the vulnerability of at-risk or targeted
21 entities to homeland security emergencies; and

22 (2) prevent or minimize damage, injury, loss of life,
23 and loss of property in the event of a homeland security emergency.

24 (d) The center shall perform its duties under circumstances
25 prescribed by and as directed by the governor's homeland security
26 strategy.

27 SECTION 2. Section 431.051, Government Code, is amended to

1 read as follows:

2 Sec. 431.051. SUPPLEMENTAL VOLUNTEER MILITARY FORCES
3 ~~[MILITIA]~~. To provide mission-ready volunteer military forces
4 ~~[militia strength]~~ for use by the state in homeland security and
5 community service activities as a supplement to the Texas National
6 Guard, the Texas State Guard exists as part of the state militia
7 under the Second Amendment to the United States Constitution and a
8 defense force under 32 U.S.C. Section 109.

9 SECTION 3. Section 431.052(b), Government Code, is amended
10 to read as follows:

11 (b) To volunteer for service in the Texas State Guard a
12 person must:

13 (1) be a ~~[state]~~ citizen of the United States and a
14 resident of this state for at least 180 days;

15 (2) be at least 17 years of age;

16 (3) meet qualifications that the governor prescribes;

17 and

18 (4) be acceptable to and approved by the governor or
19 adjutant general under the governor's direction.

20 SECTION 4. Subchapter C, Chapter 662, Government Code, is
21 amended by adding Section 662.050 to read as follows:

22 Sec. 662.050. TEXAS FIRST RESPONDERS DAY. (a) September 11
23 is Texas First Responders Day in honor of the bravery, courage, and
24 determination of Texas men and women who assist others in
25 emergencies.

26 (b) Texas First Responders Day shall be regularly observed
27 by appropriate ceremonies in the public schools and other places to

1 honor Texas first responders.

2 SECTION 5. (a) The governor shall develop a statewide
3 homeland security strategy as required by Section 421.002,
4 Government Code, as added by this Act, not later than September 1,
5 2004.

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

10 SECTION 6. This Act takes effect September 1, 2003.