

By: Flores, Corte, Isett, et al.

H.B. No. 9

Substitute the following for H.B. No. 9:

By: Campbell

C.S.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's chief of staff or
20 the designee of the chief of staff and one representative of each of
21 the following entities, appointed by the single statewide elected
22 or appointed governing officer or administrative head of the
23 entity:

24 (1) office of the secretary of state;

25 (2) Department of Agriculture;

26 (3) office of the attorney general;

27 (4) General Land Office;

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

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

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

1 (d) An officer or employee of a state or local agency who
2 serves as a member of the council or a special advisory committee
3 under this subchapter shall perform the duties required by the
4 council or special advisory committee as an additional duty of the
5 member's office or employment.

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

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

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

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

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

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

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

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

26 (2) the implementation of the governor's homeland
27 security strategy by state and local agencies and provide specific

1 suggestions for helping those agencies implement the strategy; and
2 (3) other matters related to the planning,
3 development, coordination, and implementation of initiatives to
4 promote the governor's homeland security strategy.

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

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

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

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

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

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

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

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

27 (4) recommendations for improving the alert,

1 response, and recovery capabilities of state and local agencies.

2 [Sections 421.027-421.060 reserved for expansion]

3 SUBCHAPTER C. CIVIL LIABILITY FOR ACTS OR OMISSIONS

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

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

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

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

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

1 chapter is intended to protect.

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

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

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

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

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

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

25 [Sections 421.063-421.070 reserved for expansion]

26 SUBCHAPTER D. COOPERATION AND ASSISTANCE; FUNDING

27 Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local

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

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

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

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

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

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

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

26 [Sections 421.073-421.080 reserved for expansion]

27 SUBCHAPTER E. TEXAS INFRASTRUCTURE PROTECTION

1 COMMUNICATIONS CENTER

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

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

11 (b) The center's duties include:

12 (1) promotion of emergency preparedness;

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

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

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

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

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

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

1 SECTION 2. Section 431.051, Government Code, is amended to
2 read as follows:

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

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

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

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

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

17 (3) meet qualifications that the governor prescribes;
18 and

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

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

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

27 (b) Texas First Responders Day shall be regularly observed

1 by appropriate ceremonies in the public schools and other places to
2 honor Texas first responders.

3 SECTION 5. (a) The governor shall develop a statewide
4 homeland security strategy as required by Section 421.002,
5 Government Code, as added by this Act, not later than September 1,
6 2004.

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

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