

By: Shapiro

S.B. No. 869

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; and

18 (8) using technological resources to:

19 (A) facilitate the interoperability of
20 government technological resources, including data, networks, and
21 applications;

22 (B) coordinate the warning and alert systems of
23 state and local agencies;

24 (C) incorporate multidisciplinary approaches to
25 homeland security; and

26 (D) improve the security of governmental and
27 private sector information technology and information resources.

1 (c) The governor's homeland security strategy must
2 complement and operate in coordination with the federal homeland
3 security strategy.

4 [Sections 421.003-421.020 reserved for expansion]

5 SUBCHAPTER B. CRITICAL INFRASTRUCTURE PROTECTION COUNCIL

6 Sec. 421.021. MEMBERSHIP. (a) The Critical Infrastructure
7 Protection Council is composed of the governor's chief of staff or
8 the designee of the chief of staff and one representative of each of
9 the following entities, appointed by the single statewide elected
10 or appointed governing officer or administrative head of the
11 entity:

- 12 (1) office of the secretary of state;
13 (2) Department of Agriculture;
14 (3) office of the attorney general;
15 (4) General Land Office;
16 (5) Texas Animal Health Commission;
17 (6) Commission on Law Enforcement Officer Standards
18 and Education;
19 (7) Texas Commission on Volunteerism and Community
20 Service;
21 (8) Commission on State Emergency Communications;
22 (9) Public Utility Commission of Texas;
23 (10) Texas Department of Health;
24 (11) Texas Department of Human Services;
25 (12) Department of Information Resources;
26 (13) Department of Public Safety of the State of
27 Texas;

1 (14) division of emergency management of the office of
2 the governor;

3 (15) Texas Department of Transportation;

4 (16) Texas Education Agency;

5 (17) Texas National Guard;

6 (18) Texas Commission on Environmental Quality;

7 (19) Parks and Wildlife Department; and

8 (20) Railroad Commission of Texas.

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

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

17 (d) An officer or employee of a state or local agency who
18 serves as a member of the council or a special advisory committee
19 under this subchapter shall perform the duties required by the
20 council or special advisory committee as an additional duty of the
21 member's office or employment.

22 Sec. 421.022. REIMBURSEMENT OF EXPENSES. A member of the
23 council may not receive compensation for service on the council but
24 is entitled to reimbursement of reasonable expenses incurred in
25 direct performance of official duties, including travel expenses
26 incurred by the member while conducting the business of the
27 council, subject to any applicable limitation on reimbursement

1 provided by general law or the General Appropriations Act.

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

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

6 (c) The governor shall designate the presiding officer of
7 the council.

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

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

11 Sec. 421.024. DUTIES. The council shall advise the
12 governor on:

13 (1) the development and coordination of a statewide
14 critical infrastructure protection strategy;

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

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

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

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

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

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

6 Sec. 421.026. REPORT. (a) The council shall annually
7 submit to the governor a report stating:

8 (1) the council's progress in developing and
9 coordinating a statewide critical infrastructure protection
10 strategy;

11 (2) the status and funding of state programs designed
12 to detect and deter homeland security emergencies, including the
13 status and funding of counterterrorism efforts;

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

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

18 (b) The report is not subject to required disclosure under
19 Chapter 552 or other law, and Section 552.007(b) does not apply to
20 the report.

21 [Sections 421.027-421.060 reserved for expansion]

22 SUBCHAPTER C. CIVIL LIABILITY FOR ACTS OR OMISSIONS

23 Sec. 421.061. IMMUNITY FROM CIVIL LIABILITY. (a) An
24 officer or employee of a state or local agency performing a homeland
25 security activity or a volunteer performing a homeland security
26 activity at the request or under the direction of an officer or
27 employee of a state or local agency is considered for purposes of

1 Section 431.085 to be a member of the state military forces ordered
2 into active service of the state by proper authority and is
3 considered to be discharging a duty in that capacity if:

4 (1) the officer, employee, or volunteer is performing
5 the homeland security activity under procedures prescribed or
6 circumstances described for the purpose of this section in the
7 governor's homeland security strategy;

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

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

14 (b) A person described by Subsection (a) is not civilly
15 liable under Section 431.085 for the performance of a homeland
16 security activity only if the person acted in good faith in the
17 performance of the activity.

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

21 (d) This section does not affect the application of Section
22 431.085 on its own terms to a person who is a member of the state
23 military forces ordered into active service of the state by proper
24 authority under other law.

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

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

6 (1) the interlocal contract expressly states that the
7 furnishing state or local agency is not responsible for any civil
8 liability that arises from the furnishing of a service under the
9 contract; and

10 (2) the state or local agency committed the act or
11 omission while acting in good faith and in the course and scope of
12 its functions to provide a service related to a homeland security
13 activity.

14 [Sections 421.063-421.070 reserved for expansion]

15 SUBCHAPTER D. COOPERATION AND ASSISTANCE; FUNDING

16 Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local
17 agency that performs a homeland security activity or a
18 nongovernmental entity that contracts with a state or local agency
19 to perform a homeland security activity shall cooperate with and
20 assist the office of the governor, the Critical Infrastructure
21 Protection Council, and the National Infrastructure Protection
22 Center in the performance of their duties under this chapter and
23 other state or federal law.

24 Sec. 421.072. FUNDING. (a) The office of the governor
25 shall allocate available grants and other funding related to
26 homeland security to state and local agencies that perform homeland
27 security activities and shall periodically review the grants and

1 other funding for appropriateness and compliance.

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

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

10 SECTION 2. (a) The governor shall develop a statewide
11 homeland security strategy as required by Section 421.002,
12 Government Code, as added by this Act, not later than September 1,
13 2004.

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

18 SECTION 3. This Act takes effect September 1, 2003.