

BILL ANALYSIS

Senate Research Center

S.B. 9
By: Staples
Transportation & Homeland Security
7/21/2005
Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The ability of the state to detect, deter, and respond to acts of terrorism is essential for the safety and security of all Texans.

S.B. 9 provides for improvement in the areas of agro-terrorism, mutual aid, first responder radio and computer communications interoperability in the state, the Health Alert Network, public drinking water security, and protection of critical infrastructure.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2, Agriculture Code, by adding Section 2.006, as follows:

Sec. 2.006. POLICY: PROTECTION OF STATE FROM CERTAIN PESTS AND DISEASES. (a) Requires the agricultural policy of this state to recognize that it is of paramount importance to protect this state and the agriculture industry in this state against the intentional or unintentional introduction or dissemination of damaging plant and animal pests and diseases.

(b) Requires the Department of Agriculture (department), with the assistance of the Texas Animal Health Commission (commission), to pursue a policy of ensuring that the borders of this state are secure from shipments of potentially dangerous plant and animal pests and diseases.

SECTION 2. Amends Section 71.0081, Agriculture Code, by adding Subsection (c-1) to authorize the department to enter into an agreements with a corporation or other private entity to provide goods or services for the establishment and operation of checkpoints or the performance of inspections under this section.

SECTION 3. Amends Subchapter A, Chapter 71, Agriculture Code, by adding Section 71.0082, as follows:

Sec. 71.0082. INSPECTIONS FOR CERTAIN PESTS AND DISEASES. (a) Requires, in addition to vehicle inspections authorized under Section 71.0081, the department and the commission, under the direction of the department, to jointly conduct road station and interstate shipment inspections as feasible at strategic points throughout this state and as determined to be appropriate by the department and the commission, taking into consideration the significance of plant and animal inspections in proactively protecting the state's borders.

(b) Authorizes the department to enter into an agreement with a corporation or other private entity to provide goods or services for the establishment and operation of checkpoints or the performance of inspections under this section.

SECTION 4. Amends Section 161.048, Agriculture Code, by adding Subsection (d-1), as follows:

(d-1) Authorizes the commission to enter into an agreement with a corporation or other private entity to provide goods or services for the establishment and operation of checkpoints or the performance of inspections under this section.

SECTION 5. Amends Article 2.122, Code of Criminal Procedure, by adding Subsection (g), as follows:

(g) Provides that, in addition to the powers of arrest, search, and seizure under Subsection (a), a Special Agent of the Secret Service protecting a person described by 18 U.S.C. Section 3056(a) or investigating a threat against a person described by 18 U.S.C. Section 3056(a) has the powers of arrest, search, and seizure as to certain criminal and misdemeanor offenses.

SECTION 6. Amends Section 418.004, Government Code, by adding Subdivision (9) to define "regional planning commission."

SECTION 7. Amends Section 418.107(c), Government Code, to authorize a political subdivision or a regional planning commission, rather than a political subdivision, to render aid to other political subdivisions or regional planning commissions, rather than to other subdivisions, under mutual aid agreements.

SECTION 8. Amends Section 418.109(d), Government Code, to add a regional planning commission to the entities authorized to provide mutual aid assistance on request from certain entities. Makes a conforming change.

SECTION 9. Amends the heading to Subchapter B, Chapter 421, Government Code, to read as follows:

SUBCHAPTER B. HOMELAND SECURITY COUNCIL

SECTION 10. Amends Sections 421.021(a) and (b), Government Code, to describe the composition of the Homeland Security Council, rather than the Critical Infrastructure Protection Council. Amends the representatives from certain entities to the council. Makes conforming and nonsubstantive changes.

SECTION 11. Amends Chapter 421, Government Code, by adding Subchapter B-1, as follows:

SUBCHAPTER B-1. PERMANENT SPECIAL ADVISORY COMMITTEES

Sec. 421.041. FIRST RESPONDER ADVISORY COUNCIL. Provides that the First Responder Advisory Council (council) is a permanent special advisory committee created to advise the governor or the governor's designee on homeland security issues relevant to first responders, radio inoperability, the integration of statewide exercises for hazards, and the related use of available funding. Sets forth the composition of the council.

Sec. 421.042. PRIVATE SECTOR ADVISORY COUNCIL. Provides that the Private Sector Advisory Council is a permanent special advisory committee created to advise the governor or the governor's designee on homeland security issues relevant to the private sector. Sets forth the composition of the Private Sector Advisory Council.

Sec. 421.043. ELIGIBILITY. (a) Requires a person, to be eligible for appointment as a member of a permanent special advisory committee created under this subchapter, to demonstrate experience in the sector that the person is under consideration to represent and be directly involved in related policies, programs, or funding activities that are relevant to homeland security or infrastructure protection.

(b) Provides that each member of a permanent special advisory committee created under this subchapter serves at the will of the governor.

Sec. 421.044. COMPENSATION AND REIMBURSEMENT OF EXPENSES PROHIBITED. Provides that a person who is a member of a permanent special advisory committee created under this subchapter is not entitled to receive compensation from this state for service on the committee or travel expenses incurred by the person while conducting the business of the committee.

Sec. 421.045. DUTIES. Requires each permanent special advisory committee created under this subchapter to advise the governor on certain issues.

SECTION 12. Amends Section 421.071, Government Code, to make a conforming change.

SECTION 13. Amends Sections 421.072(a) and (c), Government Code, as follows:

(a) Requires the office of the governor to take certain actions relating to the administration of grants related to homeland security. Makes a conforming change.

(c) Requires a state or local agency or defense base development authority that receives a grant or other funding related to homeland security to provide an annual report to the office of the governor detailing certain information.

SECTION 14. Amends Chapter 421, Government Code, by adding Subchapter F, as follows:

SUBCHAPTER F. GOVERNOR'S INTEROPERABLE RADIO COMMUNICATIONS PROGRAM

Sec. 421.095. DEFINITIONS. Defines "first responder" and "infrastructure equipment."

Sec. 421.096. INTEROPERABILITY OF RADIO SYSTEMS. Requires the office of the governor to develop and administer a plan to design and implement a statewide integrated public safety radio communications system that promotes interoperability within and between certain entities; to develop and administer a plan to purchase infrastructure equipment for state and local agencies and first responders; advise representatives of entities involved in homeland security activities; and use appropriated money for the purposes of designing, implementing, and maintaining a statewide integrated public safety radio communications system.

Sec. 421.097. ASSISTANCE. Authorizes the office of the governor to consult with a representative of an entity involved in homeland security activities to obtain assistance or information necessary for the performance of any duty under this subchapter.

Sec. 421.098. REPORT. Requires the office of the governor, not later than September 1 of each year, to provide to the legislature a report on the status of its duties under this subchapter.

SECTION 15. Amends Chapter 421, Government Code, by adding Subchapter Z, as follows:

SUBCHAPTER Z. MISCELLANEOUS

Sec. 421.901. INTEROPERABILITY OF CRITICAL INFORMATION SYSTEMS. Requires the office of the governor to develop a plan for appropriate entities to use certain information systems.

SECTION 16. Amends Section 791.006, Government Code, by amending Subsection (a) and adding Subsections (a-1) and (d), as follows:

(a) Provides that if governmental units contract under this chapter to furnish or obtain services of a fire department, such as training, fire suppression, fire fighting, ambulance services, hazardous materials response services, fire and rescue services, or paramedic services, the governmental unit that would have been responsible for furnishing the services in the absence of the contract is responsible for any civil liability that arises from the furnishing of those services.

(a-1) Authorizes, notwithstanding Subsection (a), if a municipality, county, rural fire prevention district, emergency services district, fire protection agency, regional planning commission, or joint board enters into a contract with a governmental unit under this chapter to furnish or obtain fire or emergency services, the parties to the contract to agree to assign responsibility for civil liability that arises from the furnishing or obtaining of services under the contract in any manner agreed to by the parties. Requires the parties to the contract, to assign responsibility for civil liability under this subsection, to assign responsibility in a written provision of the contract that specifically references this subsection and states that the assignment of liability is intended to be different than liability otherwise assigned under Subsection (a).

(d) Provides that notwithstanding any other provision of this chapter, a contract under this chapter is not a joint enterprise for the purpose of assigning or determining liability.

SECTION 17. Amends Subchapter B, Chapter 12, Health and Safety Code, by adding Section 12.0128, as follows:

[While the statutory reference in this section is to the Texas Department of Health, the following amendment affects the Department of State Health Services, as the successor agency to the Texas Department of Health.]

Sec. 12.0128. HEALTH ALERT NETWORK. Requires the Texas Department of Health to include certain healthcare related entities in the department's Texas Health Alert Network to the extent federal funds for bioterrorism preparedness are available for that purpose.

SECTION 18. Amends Section 341.033, Health and Safety Code, by adding Subsection (i) to require certain persons in charge of a public water supply that furnishes water for public or private use or a wastewater system that provides wastewater services for public or private use to maintain internal procedures to notify the Texas Commission on Environmental Quality immediately of certain events at the water supply system that may negatively impact the production of safe and adequate drinking water.

SECTION 19. Amends Subchapter G, Chapter 756, Health and Safety Code, as added by Chapter 1082, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 756.106, as follows:

Sec. 756.106. SAFETY STANDARDS AND BEST PRACTICES. Requires the Railroad Commission of Texas (RRCT) to adopt and enforce safety standards and best practices, including those described by 49 U.S.C. Section 6105 et seq., relating to the prevention of damage by a person to a facility under the jurisdiction of RRCT.

SECTION 20. Amends Section 30.05(b), Penal Code, by adding Subdivision (7) to define "critical infrastructure facility."

SECTION 21. Amends Section 30.05, Penal Code, by amending Subsection (d) and adding Subsections (g) and (h), as follows:

(d) Creates an exception to the provision that a criminal trespass is a Class B misdemeanor by making a criminal trespass on or in a critical infrastructure facility a Class A misdemeanor.

(g) Provides that it is a defense to prosecution under this section that the actor entered a railroad switching yard or any part of a railroad switching yard and was at that time an employee or a representative of employees exercising a right under the federal Railway Labor Act.

(h) Authorizes the defendant, at the punishment stage of a trial in which the attorney representing the state seeks increased punishment for criminal trespass because it was on or in a critical infrastructure facility, to raise the issue as to whether the defendant entered

or remained on or in a critical infrastructure facility as part of a peaceful or lawful assembly, including an attempt to exercise rights guaranteed by state or federal labor laws. Provides that if the defendant proves the issue in the affirmative by a preponderance of the evidence, the increase in punishment does not apply.

SECTION 22. (a) Repealer: Section 411.0105 (Public Safety Radio Communications Council), Government Code.

(b) Repealer: Section 752.006 (Restriction on Operation of Certain Machinery or Equipment), Health and Safety Code.

SECTION 23. Abolishes the Public Safety Radio Communications Council (council) on the effective date of this Act. Provides that on the effective date of this Act the governor replaces the council as the entity responsible for oversight of a program related to interoperability of radio communications, all property that relates to the council becomes the property of the office of the governor, and certain funds appropriated for the council are transferred to the office of the governor.

SECTION 24. Requires the head of each entity listed in Subdivision (9) and Subdivisions (14) through (27), Subsection (a), Section 421.021, Government Code, as amended by this Act, to appoint a representative to the Homeland Security Council, as required by that section, not later than December 1, 2005.

SECTION 25. Requires the governor to make all required appointments to the First Responder Advisory Council and the Private Sector Advisory Council, in accordance with Subchapter B-1, Chapter 421, Government Code, as added by this Act, not later than December 1, 2005.

SECTION 26. Makes application of the change in law made by this Act to Section 791.006, Government Code, prospective.

SECTION 27. Requires RRCT to adopt the safety standards and best practices required by Section 756.106, Health and Safety code, as added by this Act, not later than June 1, 2007.

SECTION 28. Makes application of the change in law to Section 30.05, Penal Code, prospective to September 1, 2005.

SECTION 29. Effective date: upon passage or September 1, 2005.