

BILL ANALYSIS

Senate Research Center

C.S.S.B. 9
By: Staples
Transportation & Homeland Security
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Committee Report (Substituted)

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.

C.S.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 Section 71.0081, Agriculture Code, by adding Subsection (c-1) to authorize the Texas Department of Agriculture to execute agreements with corporations or other private concerns to provide goods or services to establish checkpoints or conduct inspections.

SECTION 2. Amends Section 418.004, Government Code, by adding Subdivision (9) to define "regional planning commission."

SECTION 3. 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 4. 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 5. Amends the heading to Subchapter B, Chapter 421, Government Code, to read as follows:

SUBCHAPTER B. HOMELAND SECURITY COUNCIL

SECTION 6. Amends Section 421.021(a), Government Code, to describe the composition of the Homeland Security Council, rather than the Critical Infrastructure Protection Council. Adds and removes representatives from certain additional entities to the council. Makes nonsubstantive changes.

SECTION 7. Amends Section 421.071, Government Code, to make a conforming change.

SECTION 8. Amends Chapter 421, Government Code, by adding Subchapter F, as follows:

SUBCHAPTER F. GOVERNOR'S INTEROPERABLE RADIO AND COMPUTER COMMUNICATIONS PROGRAM

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

Sec. 421.096. INTEROPERABILITY OF RADIO AND COMPUTER SYSTEMS. Requires the office of the governor to develop and administer a plan to design and implement a statewide integrated public safety radio and computer communications system that promotes interoperability within and between certain entities; to develop and administer a plan to purchase infrastructure equipment and computer systems 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 and computer 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 9. Amends the heading to Section 791.006, Government Code, to read as follows:

Sec. 791.006. LIABILITY UNDER CONTRACT OR IN ABSENCE OF CONTRACT FOR PROVISION OF FIRE, EMERGENCY, OR LAW ENFORCEMENT SERVICES.

SECTION 10. Amends Section 791.006, Government Code, by amending Subsection (a) and adding Subsections (d) and (e), as follows:

(a) Authorizes governmental units, if governmental units enter into a contract under this chapter to furnish or obtain fire or emergency services, to determine by contract which party is responsible for any civil liability that arises from the furnishing of those services. Deletes existing text making a governmental unit that would have been responsible for furnishing the services in the absence of a contract liable for civil liability that arises from fire department services. Provides that in the absence of a contract addressing liability, if one emergency services entity furnishes fire or emergency services to another emergency services entity, each governmental unit is responsible for its own actions for any civil liability that arises from the furnishing or obtaining of those services.

(d) Provides that nothing in this section affects the employer-employee relationship or the terms or conditions of employment between a governmental unit and its employees, such as the payment of wages or provision of benefits, including workers' compensation.

(e) Provides that nothing in this section affects a school district.

SECTION 11. 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 12. 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 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 13. Amends Section 30.05(b), Penal Code, by adding Subdivision (7) to define "critical infrastructure facility."

SECTION 14. 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 15. Repealer: Section 411.0105 (Public Safety Radio Communications Council), Government Code.

SECTION 16. 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 17. Makes application of the change in law to Section 30.05, Penal Code, prospective to September 1, 2005.

SECTION 18. Provides that the change in law to Section 791.006, Government Code, does not affect any civil liability for services furnished under an interlocal cooperation contract to furnish or obtain the services of a fire department entered into before the effective date of this Act, and that the former law is in effect for purpose of determining liability for services furnished under those contracts.

SECTION 19. Effective date: upon passage or September 1, 2005.