

BILL ANALYSIS

C.S.H.B. 1861
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Over the past two years natural disasters have greatly impacted Texas. In the aftermath of Hurricane Ike, 2.5 million people lacked power and basic communications were halted. In addition, an emergency evacuation was ordered for many areas. These circumstances led to courts having difficulty meeting certain statutory deadlines.

C.S.H.B. 1861 authorizes the content of local rules of judicial administration to provide for a coordinated response for the transaction of essential judicial functions in the event of a disaster. The bill acknowledges the role of the judiciary in emergency preparedness and authorizes the Supreme Court of Texas to suspend procedures for the conduct of any court proceeding affected by a disaster.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 1861 amends the Government Code to authorize the local rules of administration that must be adopted by district and statutory county court judges in each county to provide for a coordinated response for the transaction of essential judicial functions in the event of a disaster in addition to other matters. The bill includes as a purpose of the Texas Disaster Act of 1975 clarifying and strengthening the role of the judicial branch of state government in prevention of, preparation for, response to, and recovery from disasters.

C.S.H.B. 1861 authorizes the Supreme Court of Texas, by rule or order, or on a case by case basis, to exercise the court's inherent authority, with or without the consent of the parties, to suspend procedures for the conduct of any court proceeding affected by a disaster. The bill authorizes the supreme court to provide abatements and stays, to toll limitations, to toll or modify other filings and service deadlines, to provide for hearings or trials at locations other than the county of suit, to provide for courts of appeal to accept filings and hear arguments in remote courthouses, and to provide for alternative notice requirements. The bill authorizes the Texas Court of Criminal Appeals, if a disaster prevents the supreme court from acting, to act on behalf of the supreme court. The bill authorizes the chief justice of the supreme court and the presiding judge of the court of criminal appeals, if a disaster prevents both the supreme court and the court of criminal appeals from acting, to act on behalf of the judicial branch of state government.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1861 authorizes the Supreme Court of Texas, by rule or order, or on a case by case basis, to exercise the court's inherent authority to suspend procedures for the conduct of any court proceeding affected by a disaster, whereas the original establishes that the supreme court and court of criminal appeals have the rulemaking power to extend a statute of limitations or other deadline in a civil or criminal matter, respectively, in a county all or part of which is located in a declared disaster area. The substitute adds provisions not in the original authorizing a county's local rules of administration to provide for a coordinated response for the transaction of essential judicial functions in the event of a disaster and acknowledging the role of the judiciary in emergency preparedness.