

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1831 by Corte (Relating to disaster preparedness and emergency management and to certain vehicles used in emergencies; providing a penalty.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1831, As Passed 2nd House: a negative impact of (\$5,805,135) through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$3,166,933)
2011	(\$2,638,202)
2012	(\$236,764)
2013	(\$237,004)
2014	(\$237,252)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from 911 Service Fees 5050	Probable Revenue Gain/(Loss) from Emergency Service Fee on Wireless Telecommunications Trust Fund 0875	Probable Savings/ (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2009
2010	\$6,782,000	(\$6,782,000)	(\$3,166,933)	3.8
2011	\$12,212,000	(\$12,212,000)	(\$2,638,202)	5.0
2012	\$12,664,000	(\$12,664,000)	(\$236,764)	2.0
2013	\$12,964,000	(\$12,964,000)	(\$237,004)	2.0
2014	\$13,100,000	(\$13,100,000)	(\$237,252)	2.0

Fiscal Analysis

The bill would amend the Education, Government, Health and Safety, Transportation, and Utilities Codes relating to disaster preparedness and emergency management.

The bill states a document relating to a school district's multihazard emergency operations plan is subject to disclosure if the document enables a person to verify certain aspects of the district plan. The bill adds extreme heat to the definition of disaster. The bill requires the Texas Engineering Extension Service of the Texas A&M University to implement online courses for elected or appointed officials, volunteers, or employees regarding the responsibilities of state and local governments for emergency management and preparedness. The bill requires a state emergency plan annex that addresses initial response planning for providing essential

population support supplies, equipment, and service during the first five days immediately following a disaster including fuel availability, backup power, clearance of debris, obtaining food, water and ice, and basic medical support. The bill requires a public awareness plan to expand the information and referral network under Government Code, Section 531.0312 and improve the integration of volunteer groups and faith based organizations. The bill requires a phased reentry plan (including a credentialing process) to govern the order in which particular groups of people are allowed to reenter previously evacuated areas. The bill establishes a communications coordination group to facilitate interagency coordination and collaboration to provide efficient planning of communications support to joint, interagency, and intergovernmental task forces. The bill develops processes and procedures for removing individuals who remain in an area that is under an evacuation order. The bill states a post disaster evaluation shall be conducted to review the entities response to a disaster, identify areas of improvement, and issue an evaluation report. The bill requires the development of an annex to the state emergency management plan to include provisions for medical special needs (for both long-term and short-term shelter operations) and regional plans for personnel surge capacity during disasters. The bill also requires the development of an annex to the state emergency management plan to include provisions for an agriculture emergency response plan. The bill requires institutions licensed under Health and Safety Code, Chapter 242 and assisted living facilities licensed under Health and Safety Code, Chapter 247 to register with the Texas Information and Referral Network to identify people needing assistance if an area is evacuated. The bill requires each electric utility to submit a report regarding infrastructure improvement and maintenance. The bill adds provisions for in-casket identification of deceased people. The bill includes provisions for state employees who are emergency services personnel, who are not subject to the Federal Fair Labor Standards Act, to take compensatory time off during the 18-months period following the end of the work week in which the emergency compensatory time was accrued or may receive overtime for all or part of the hours of compensatory time accrued during the declared disaster. The bill adds provisions for a coordinated response for the transaction of essential judicial functions in the event of a disaster, including the suspension of procedures for the conduct of any court proceeding affected by the disaster. The bill adds provisions requiring that certain water services providers ensure emergency operations during an extended power outage. The bill adds provisions relating to the suspension of the unemployment compensation waiting period requirement during a disaster subject to a federal disaster declaration. The bill adds provisions relating to certain energy security technologies for critical governmental facilities. The bill adds provisions relating to the ability of electronic utilities to provide electric service during a major power outage. The bill adds provisions regarding the temporary suspension of certain signage restrictions during a state of disaster. The bill adds provisions regarding certain health-related reports, records, and information. The bill adds provisions regarding the transport of fireworks within a municipality. The bill adds provisions regarding the lodging expenses of certain state emergency services personnel.

The bill would repeal Government Code, Section 418.072 regarding the Disaster Emergency Funding Board and Government Code, Chapter 2302 regarding the State Cogeneration Council.

Methodology

The bill includes provisions relating to a uniform and statewide 9-1-1 emergency services fee on the retail sale of prepaid wireless telecommunications services to consumers. The section of the bill would amend the Health and Safety Code by creating a prepaid wireless 9-1-1 emergency services fee of 2 percent on each retail transaction of prepaid wireless telecommunication service and dedicate and direct the use of the new fee revenue.

Under the provisions of the bill, the fee would be assessed and collected by sellers of the prepaid services and remitted monthly to the Comptroller for deposit into GR Account 5050—911 Service Fees. Sellers would be entitled to retain a 1 percent administrative fee. The bill would stipulate that this new fee is a liability of the consumer but that retailers would be liable to remit all fees collected. The bill would give providers and sellers of prepaid wireless service certain and specific indemnity from damages. Prepaid wireless providers would also have the same liability exemptions afforded wireless service providers.

The bill would prohibit the state from imposing any other fee, surcharge, or tax on prepaid wireless telecommunication service for 9-1-1 funding purposes. The new fee would be administered in the same manner as Chapter 151 of the Tax Code (sales tax). The bill would direct the Commission on State Emergency Communications (CSEC) to set an annual percentage for transfers of the fee, not to exceed 10 percent of the fee revenue, to GR Account 5007— Commission on State Emergency Communications and distributions of the new fee.

In this analysis, the Comptroller of Public Accounts based estimates on historical data for wireless fees, a distribution model of prepaid plans based on expiration dates, and the 2010-2011 Biennial Revenue Estimate.

The proportion of emergency service fees attributable to prepaid customers was determined by wireless industry trade surveys and additional information provided by the CSEC. Mobile service providers remit service fee revenue to the state one month after the fee is collected from wireless customers. Estimates were adjusted for implementation lags. Some of the wireless fee revenue is transferred from the trust fund and deposited to GR Account 5050 to meet state obligations. The fiscal effect for GR Account 5007 cannot be estimated without action on the part of CSEC.

The overall fiscal impact for this section of the bill reflects the net effect of the imposition of new 2 percent fee and the exemption from the old fee.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill also includes provisions relating to the establishment of a disaster and emergency education program which would require Department of State Health Services (DSHS) to create a Disaster and Emergency Education Program. The bill requires that the program educate citizens on emergency preparedness, response, and recovery. The education materials must include: the types of disasters and emergencies, appropriate response to each type of disaster or emergency, how to prepare for each disaster or emergency, impact of each disaster or emergency for citizens requiring medical assistance or other care, ways to respond to each disaster or emergency or to assist the victims of a disaster or emergency, and the resources or supplies for disaster or emergency recovery. The bill would require the Executive Commissioner of the Health and Human Services Commission (HHSC), in cooperation with the Governor, to adopt rules to create and administer the Disaster and Emergency Education Program.

DSHS estimates that \$1,550,000 will be needed each year of the biennium to fund a media campaign for this program. In the first three months of the campaign an estimated 8.6 million persons can be reached through a television campaign. DSHS estimates 2.0 additional FTEs would be needed. The estimated cost for these FTEs would be \$144,860 for fiscal year 2010 and \$186,532 for fiscal year 2011 and approximately \$187,000 for fiscal year 2012 and beyond. These costs include salary, benefits, and other associated expenses. The cost for the FTEs includes \$21,000 for the biennium for travel expenses for a 31 city tour promoting the program. There would be an additional fiscal impact not included in the tables for enterprise support services. The cost is assumed to be small and could be absorbed by the agency.

DSHS has utilized Federal Funds for the current "Ready or Not?" disaster planning efforts. In the event that Federal Funds are available and able to be redirected for the purposes of the bill, the need for General Revenue would be reduced. The Governor's Division of Emergency Management located at the Department of Public Safety has been appropriated Federal Funds for similar purposes.

The bill also includes provisions relating to a public health extension service pilot program which would require DSHS to establish a public health extension service pilot program in Health Service Region 11 in the Rio Grande Valley. The bill authorizes DSHS to implement projects and systems to accomplish the purpose of the program, including: providing support for regional disaster medical assistance and tactical medical operations incident management teams; establishing a disaster training and exercise program; establishing and equipping caches of medical supplies and equipment; establishing a regionally based system of emergency medical logistics management; and establishing a regionally based system to provide technical assistance for disaster mitigation and recovery. The bill requires DSHS to report to the governor, the lieutenant governor, and the speaker of the House of Representatives on the program. The bill abolishes the program September 2, 2011.

DSHS estimates this section of the bill would require three additional full-time-equivalent positions for the establishment and administration of the pilot program, including contract administration; staff would be phased in during fiscal year 2010. The agency assumes that contracts would be developed with Texas A&M University and/or the University of Texas for: the development of a training and exercise program at an annual cost of \$400,000; management of a supply and equipment cache at a cost of \$800,000 in fiscal year 2010, and \$100,000 in fiscal year 2011; and for the support and travel costs of identified team members for two trainings per year at an estimated annual cost of \$130,000. DSHS assumes additional contract costs for the evaluation of the program, as required by the bill, at a one-time cost of \$100,000 in fiscal year 2011. It is estimated that the total cost of this section of the bill would be \$2,373,743 in General Revenue Funds for the 2010-11 biennium.

Two sections of the bill would address the disaster contingency fund. These two sections of the bill which relate to the disaster contingency fund could have a significant fiscal impact to the state; however, due to the unknown size, duration, and location of any particular disaster or the scope of the state's recovery efforts, the

fiscal impact cannot be determined. Additionally, the Comptroller reports that the Disaster Contingency Fund (0453) currently has no available balance and no existing funding mechanism that would appropriate funds to the account in the future.

The first section relating to the disaster contingency fund states the Governor's Division of Emergency Management (GDEM) may employ or contract with temporary personnel from division funds, federal funds, or funds from the disaster contingency fund. The bill also states GDEM may enroll, organize, train and equip a cadre of disaster reservists to temporarily augment its permanent staff. GDEM may also activate and pay enrolled disaster reservists to support recovery operations in the aftermath of a disaster or major emergency. Current law allows GDEM to contract for these services from funds appropriated to the division, from federal funds, or from the disaster contingency fund. The second section relating to the disaster contingency fund allows an agency to request funding from the Disaster Contingency Fund for the purpose of purchasing insurance in order to qualify for federal disaster assistance funds. Section 5154 of the federal Stafford Act requires that insurance purchased in order to qualify for federal disaster assistance must be maintained for the life of the structure to protect against future loss to such property. This could have a significant fiscal impact to the state; however, due to the unknown cost of such policies, the number of agencies seeking assistance, and the life of such structures, the cost cannot be determined.

Technology

Included in the estimated costs is \$50,000 in General Revenue Funds for fiscal year 2010 and beyond for maintenance and support for the TexasPrepares.org website. In a similar campaign there were 67,000 unique visitors to the site. The estimated costs also include a one-time cost of \$3,000 in General Revenue Funds in fiscal year 2010 for the public extension service pilot program.

Local Government Impact

There are provisions of the bill that are anticipated to have no significant fiscal impact to units of local government or that are assumed could be reasonably absorbed with existing resources. The fiscal impact of other provisions of the bill cannot be determined due the unavailability of reliable data or information. There are also provisions of the bill that would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government. There are provisions of the bill where if a government entity currently has an ordinance, order, or rule in place that prohibits or regulates the transport of fireworks as described in the bill, there would be some administrative costs involved in removing the ordinance, order, or rule.

Source Agencies: 304 Comptroller of Public Accounts, 116 Sunset Advisory Commission

LBB Staff: JOB, KJG, GG, LG, MN, SD