

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 13, 2009

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

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

IN RE: SB12 by Carona (Relating to disaster preparedness and emergency management; providing a penalty.), **Committee Report 1st House, Substituted**

There are provisions of the bill that are anticipated to have no significant impact to the State or that are assumed could be reasonably be absorbed with existing resources. The fiscal impact of other provisions of the bill cannot be determined due to the unavailability of reliable data or information.

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

Three sections of the bill would address the disaster contingency fund. All three provisions (Section 1.08, 1.12, and 1.15) related 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 can not 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.

Section 1.08 of the bill 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. Section 1.12 of the bill states a public or not-for-profit hospital may request funding from the disaster contingency fund or through a mutual aid agreement with a political subdivision for deployment of hospital services. The bill states that if funds are not available for the required insurance, an agency may request funding from the disaster contingency fund. Section 1.15 of the bill 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 can not be determined.

Section 4.01 of the bill states that the Adjutant General's Department (AGD) shall pay members of the Texas State Guard who are called to state active duty and if the length of stay exceeds 45 consecutive days, the Texas State Guard may be paid up to 140 percent of the amount authorized in the General Appropriations Act. The probable impact of this provision cannot be determined due to the unavailability of information related to the number of times state active Texas State Guard members duty would exceed 45 consecutive days, therefore the amount of pay to Texas State Guard members on state active duty cannot be determined. According to the AGD, members who are on state active duty are not treated as classified state employees; they are treated as employees, only for the purpose of reporting to the Internal Revenue Service. In order to estimate the increase of 140 percent authorized in the General Appropriations Act if the state active duty exceeds 45 days, the estimate will be based on the current rate of pay of \$121 per day. This would be an increase of \$48 per day. During Hurricane Katrina, over 900 Texas State Guard

members were called to state active duty and 800 members were called to active duty during Hurricane Ike. The estimate will assume that a mission is for 105 days and that there will be a gradual reduction in members called to state active duty as the mission comes to an end. The estimate will assume 600 members for an additional 15 days over 45 days ($600 \times 15 = 9,000 \times \$48/\text{day} = \$432,000$) plus 400 members for another 30 days over 60 days ($400 \times 30 = 12,000 \times \$48/\text{day} = 576,000$) plus 200 members for another 15 days over 90 days ($200 \times 15 = 3,000 \times \$48/\text{day} = \$144,000$) for a grand total of exceeding 45 days by 60 days of \$1,152,000. The estimate also assumes that this will be 100 percent general revenue. If the mission receives federal support it could be reimbursed at 75 percent to 100 percent. Therefore, if AGC received federal support, the remaining state impact would be \$288,000 per year.

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, 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 establishes processes and procedures for energy security technologies for critical governmental facilities. The bill requires each electric utility to develop plans for infrastructure improvement and maintenance, establish an approval process, and renewal and review processes for the plans. 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. These provisions of the bill are not expected to have a significant fiscal impact or could be absorbed with existing resources.

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.

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.

Source Agencies: 301 Office of the Governor, 401 Adjutant General's Department, 473 Public Utility Commission of Texas, 529 Health and Human Services Commission, 537 State Health Services, Department of, 551 Department of Agriculture, 716 Texas Engineering Extension Service

LBB Staff: JOB, KJG, GG, LG, SK, SDO