

SENATE AMENDMENTS

2nd Printing

By: Corte, Edwards, Eiland

H.B. No. 1831

A BILL TO BE ENTITLED

AN ACT

relating to emergency management and disaster recovery.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 418.005(a) and (b), Government Code, are amended to read as follows:

(a) This section applies only to an elected law enforcement officer or county judge or an appointed public officer of the state or of a political subdivision who has management or supervisory responsibilities and:

(1) whose position description, job duties, or assignment includes emergency management responsibilities; or

(2) who plays a role in emergency preparedness, response, or recovery.

(b) Each person described by Subsection (a) shall complete a course of training provided or approved by the division of not less than three hours regarding the responsibilities of state and local governments under this chapter not later than the 180th day after the date the person:

(1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a an appointed public officer; or

(2) otherwise assumes responsibilities as a an appointed public officer, if the person is not required to take an oath of office to assume the person's duties.

1 SECTION 2. Section 418.013, Government Code, is amended by
2 amending Subsection (b) and adding Subsection (d) to read as
3 follows:

4 (b) The emergency management council is composed of
5 representatives [~~the heads~~] of state agencies, boards, [~~and~~]
6 commissions, and [~~representatives of~~] organized volunteer groups
7 designated by the head of each entity.

8 (d) The council shall assist the division in identifying,
9 mobilizing, and deploying state resources to respond to major
10 emergencies and disasters throughout the state.

11 SECTION 3. Section 418.042(a), Government Code, is amended
12 to read as follows:

13 (a) The division shall prepare and keep current a
14 comprehensive state emergency management plan. The plan may
15 include:

16 (1) provisions for prevention and minimization of
17 injury and damage caused by disaster;

18 (2) provisions for prompt and effective response to
19 disaster;

20 (3) provisions for emergency relief;

21 (4) provisions for energy emergencies;

22 (5) identification of areas particularly vulnerable
23 to disasters;

24 (6) recommendations for zoning, building
25 restrictions, and other land-use controls, safety measures for
26 securing mobile homes or other nonpermanent or semipermanent
27 structures, and other preventive and preparedness measures

1 designed to eliminate or reduce disasters or their impact;

2 (7) provisions for assistance to local officials in
3 designing local emergency management plans;

4 (8) authorization and procedures for the erection or
5 other construction of temporary works designed to protect against
6 or mitigate danger, damage, or loss from flood, fire, or other
7 disaster;

8 (9) preparation and distribution to the appropriate
9 state and local officials of state catalogs of federal, state, and
10 private assistance programs;

11 (10) organization of manpower and channels of
12 assistance;

13 (11) coordination of federal, state, and local
14 emergency management activities;

15 (12) coordination of the state emergency management
16 plan with the emergency management plans of the federal government;

17 (13) coordination of federal and state energy
18 emergency plans;

19 (14) provisions for informing [~~education and training~~
20 ~~of~~] local officials on activation of the Emergency Alert System
21 established under 47 C.F.R. Part 11; and

22 (15) other necessary matters relating to disasters.

23 SECTION 4. Subchapter C, Chapter 418, Government Code, is
24 amended by adding Section 418.0425 to read as follows:

25 Sec. 418.0425. STATE EMERGENCY MANAGEMENT PLAN ANNEX. (a)

26 In this section, "critical water or wastewater facility" means a
27 facility with:

1 (1) water supply, treatment, or distribution
2 equipment that is essential to maintain the minimum water pressure
3 requirements established by the governing body of a municipality or
4 the Texas Commission on Environmental Quality; or

5 (2) wastewater collection or treatment equipment that
6 is essential to prevent the discharge of untreated wastewater to
7 water in the state.

8 (b) The division, in cooperation with the emergency
9 management council, local governments, regional entities, health
10 and medical facilities, volunteer groups, private sector partners,
11 the Federal Emergency Management Agency, and other federal
12 agencies, shall develop an annex to the state emergency management
13 plan that addresses initial response planning for providing
14 essential population support supplies, equipment, and services
15 during the first 120 hours immediately following a disaster. The
16 annex must include:

17 (1) provisions for interagency coordination of
18 disaster response efforts;

19 (2) provisions for the rapid gross assessment of
20 population support needs;

21 (3) plans for the clearance of debris from major
22 roadways to facilitate emergency response operations and delivery
23 of essential population support supplies and equipment;

24 (4) methods to obtain food, water, and ice for
25 disaster victims through prearranged contracts or suppliers,
26 stockpiled supplies, or plans to request assistance from federal
27 agencies, as appropriate;

1 (5) guidelines for arranging temporary points of
2 distribution for disaster relief supplies and standardized
3 procedures for operating those distribution points;

4 (6) methods for providing basic medical support for
5 disaster victims, including medical supplies and pharmaceuticals;

6 (7) provisions, developed in coordination with fuel
7 suppliers and retailers, for the continued operation of service
8 stations to provide fuel to disaster victims and emergency
9 responders; and

10 (8) provisions for the dissemination of emergency
11 information through the media to aid disaster victims.

12 (c) The division, in coordination with the Texas Commission
13 on Environmental Quality and electric, gas, water, and wastewater
14 utility providers, shall develop for inclusion in the annex to the
15 state emergency management plan provisions to provide emergency
16 power to restore or continue the operation of critical water or
17 wastewater facilities following a disaster. The provisions must:

18 (1) establish an online resource database of available
19 emergency generators configured for transport that are capable of
20 providing backup power for critical water or wastewater facilities
21 following a disaster;

22 (2) include procedures for the maintenance,
23 activation, transportation, and redeployment of available
24 emergency generators;

25 (3) develop a standardized form for use by a water or
26 wastewater utility provider in developing and maintaining data on
27 the number and type of emergency generators required for the

1 operation of the provider's critical water or wastewater facilities
2 following a disaster; and

3 (4) include procedures for water or wastewater utility
4 providers to maintain a current list of generators available in
5 surrounding areas through mutual aid agreements and through
6 commercial firms offering generators for rent or lease.

7 SECTION 5. Section 418.045, Government Code, is amended to
8 read as follows:

9 Sec. 418.045. TEMPORARY PERSONNEL. (a) The division may
10 employ or contract with temporary personnel from funds appropriated
11 to the division, from federal funds, or from the disaster
12 contingency fund. The merit system does not apply to the temporary
13 or contract positions.

14 (b) The division may enroll, organize, train, and equip a
15 cadre of disaster reservists with specialized skills in disaster
16 recovery, hazard mitigation, community outreach, and public
17 information to temporarily augment its permanent staff. The
18 division may activate enrolled disaster reservists to support
19 recovery operations in the aftermath of a disaster or major
20 emergency and pay them at a daily rate commensurate with their
21 qualifications and experience. Chapter 654, Chapter 2254, and
22 Subtitle D, Title 10, do not apply in relation to a disaster
23 reservist under this subsection.

24 SECTION 6. Section 418.048, Government Code, is amended to
25 read as follows:

26 Sec. 418.048. MONITORING WEATHER[, ~~SUSPENSION OF WEATHER~~
27 ~~MODIFICATION~~]. [~~a~~] The division shall keep continuously

1 apprised of weather conditions that present danger of climatic
2 activity, such as precipitation, severe enough to constitute a
3 disaster.

4 ~~[(b) If the division determines that precipitation that may
5 result from weather modification operations, either by itself or in
6 conjunction with other precipitation or climatic conditions or
7 activity, would create or contribute to the severity of a disaster,
8 it shall request in the name of the governor that the officer or
9 agency empowered to issue permits for weather modification
10 operations suspend the issuance of permits. On the governor's
11 request, no permits may be issued until the division informs the
12 officer or agency that the danger has passed.]~~

13 SECTION 7. Section 418.1015, Government Code, is amended by
14 adding Subsection (d) to read as follows:

15 (d) An emergency management director exercising under
16 Subsection (b) a power granted to the governor may not seize or use
17 state or federal resources without prior authorization from the
18 governor or the state or federal agency having responsibility for
19 those resources.

20 SECTION 8. Section 418.107(b), Government Code, is amended
21 to read as follows:

22 (b) Political subdivisions may make agreements for the
23 purpose of organizing emergency management service divisions and
24 provide for a mutual method of financing the organization of units
25 on a basis satisfactory to the subdivisions. ~~[The functioning of
26 the units shall be coordinated by the emergency management
27 council.]~~

1 SECTION 9. Section 418.108(d), Government Code, is amended
2 to read as follows:

3 (d) A declaration of local disaster activates the
4 appropriate recovery and rehabilitation aspects of all applicable
5 local or interjurisdictional emergency management plans and
6 authorizes the furnishing of aid and assistance under the
7 declaration. The appropriate preparedness and response aspects of
8 the plans are activated as provided in the plans and take effect
9 immediately after the local state of disaster is declared.

10 SECTION 10. Section 418.117, Government Code, is amended to
11 read as follows:

12 Sec. 418.117. LICENSE PORTABILITY. If the assistance of a
13 person who holds a license, certificate, permit, or other document
14 evidencing qualification in a professional, mechanical, or other
15 skill is requested by a state agency or local government entity
16 under the system, the person is considered licensed, certified,
17 permitted, or otherwise documented in the political subdivision in
18 which the service is provided as long as the service is required,
19 subject to any limitations imposed by the chief executive officer
20 or the governing body of the requesting state agency or local
21 government entity.

22 SECTION 11. Section 418.172(b), Government Code, is amended
23 to read as follows:

24 (b) If sufficient funds are not available for the required
25 insurance, an agency may request funding from [~~petition~~] the
26 disaster contingency fund [~~emergency funding board~~] to purchase the
27 insurance [~~on the agency's behalf. The board may spend money from~~

1 ~~that fund for that purpose].~~

2 SECTION 12. Title 5, Finance Code, is amended by adding
3 Chapter 397 to read as follows:

4 CHAPTER 397. MORTGAGE SERVICERS

5 Sec. 397.001. DEFINITIONS. In this chapter, "mortgage
6 servicer" and "mortgagee" have the meanings assigned by Section
7 51.0001, Property Code.

8 Sec. 397.002. INTEREST ON DISASTER REPAIR MONEY HELD BY
9 MORTGAGE SERVICER. (a) A mortgage servicer holding money for more
10 than 10 business days that is received from an insurance provider
11 for repairs to a mortgagee's property following a disaster declared
12 under Section 418.014, Government Code, shall pay interest to the
13 mortgagee.

14 (b) For purposes of interest payments, the interest shall
15 accrue from the time a mortgage servicer receives the money from an
16 insurance provider.

17 (c) The interest rate that applies for the first 10 days
18 after the money is received must be not less than the rate that the
19 mortgage servicer receives on money held in the account in which the
20 mortgage servicer held the money received from the insurance
21 provider.

22 (d) The interest rate that applies after the 10th day is the
23 minimum rate described by Subsection (c) plus two percent a year.

24 SECTION 13. On the effective date of this Act, the disaster
25 emergency funding board is abolished.

26 SECTION 14. Section 418.072, Government Code, is repealed.

27 SECTION 15. The changes in law made by this Act by the

H.B. No. 1831

1 amendment of Section 418.005, Government Code, apply only to a
2 public officer elected or appointed on or after the effective date
3 of this Act. A public officer elected or appointed before the
4 effective date of this Act is governed by the law in effect
5 immediately before that date, and the former law is continued in
6 effect for that purpose.

7 SECTION 16. This Act takes effect September 1, 2009.

ADOPTED

MAY 23 2009

Atty Gen
Secretary of the Senate

By: CARONA

H.B. No. 1831

Substitute the following for H.B. No. 1831:

By: Carmon

c.s. H.B. No. 1831

A BILL TO BE ENTITLED

AN ACT

1
2 relating to disaster preparedness and emergency management and to
3 certain vehicles used in emergencies; providing a penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 ARTICLE 1. GENERAL PROVISIONS

6 SECTION 1.01. Section 37.108, Education Code, is amended by
7 adding Subsections (c-1) and (c-2) to read as follows:

8 (c-1) Except as provided by Subsection (c-2), any document
9 or information collected during a security audit conducted under
10 Subsection (b) is not subject to disclosure under Chapter 552,
11 Government Code.

12 (c-2) A document relating to a school district's
13 multihazard emergency operation plan is subject to disclosure if
14 the document enables a person to:

15 (1) verify that the district has established a plan
16 and determine the agencies involved in the development of the plan
17 and the agencies coordinating with the district to respond to an
18 emergency, including local emergency services agencies, law
19 enforcement agencies, and fire departments;

20 (2) verify that the district's plan was reviewed
21 within the last 12 months and determine the specific review dates;

22 (3) verify that the plan addresses the four phases of
23 emergency management under Subsection (a);

24 (4) verify that district employees have been trained

1 to respond to an emergency and determine the types of training, the
2 number of employees trained, and the person conducting the
3 training;

4 (5) verify that each campus in the district has
5 conducted mandatory emergency drills and exercises in accordance
6 with the plan and determine the frequency of the drills;

7 (6) verify that the district has established a plan
8 for responding to a train derailment if required under Subsection
9 (d);

10 (7) verify that the district has completed a security
11 audit under Subsection (b) and determine the date the audit was
12 conducted, the person conducting the audit, and the date the
13 district presented the results of the audit to the school board;

14 (8) verify that the district has addressed any
15 recommendations by the district's board of trustees for improvement
16 of the plan and determine the district's progress within the last 12
17 months; and

18 (9) verify that the district has established a visitor
19 policy and identify the provisions governing access to a district
20 building or other district property.

21 SECTION 1.02. Subdivision (1), Section 418.004, Government
22 Code, is amended to read as follows:

23 (1) "Disaster" means the occurrence or imminent threat
24 of widespread or severe damage, injury, or loss of life or property
25 resulting from any natural or man-made cause, including fire,
26 flood, earthquake, wind, storm, wave action, oil spill or other
27 water contamination, volcanic activity, epidemic, air

1 contamination, blight, drought, infestation, explosion, riot,
2 hostile military or paramilitary action, extreme heat, other public
3 calamity requiring emergency action, or energy emergency.

4 SECTION 1.03. Section 418.005, Government Code, is amended
5 by amending Subsections (a) and (b) and adding Subsection (h) to
6 read as follows:

7 (a) This section applies only to an elected law enforcement
8 officer or county judge, or an appointed public officer of the state
9 or of a political subdivision, who has management or supervisory
10 responsibilities and:

11 (1) whose position description, job duties, or
12 assignment includes emergency management responsibilities; or

13 (2) who plays a role in emergency preparedness,
14 response, or recovery.

15 (b) Each person described by Subsection (a) shall complete a
16 course of training provided or approved by the division of not less
17 than three hours regarding the responsibilities of state and local
18 governments under this chapter not later than the 180th day after
19 the date the person:

20 (1) takes the oath of office, if the person is required
21 to take an oath of office to assume the person's duties as a [an
22 appointed] public officer; or

23 (2) otherwise assumes responsibilities as a [an
24 appointed] public officer, if the person is not required to take an
25 oath of office to assume the person's duties.

26 (h) The Texas Engineering Extension Service of The Texas A&M
27 University System, with the direction, oversight, and approval of

1 the division, shall implement online courses and secure continuing
2 education credits for elected or appointed officials, volunteers,
3 or employees requested to attend training or required under
4 Subsection (b) to attend training. Training under this subsection
5 is optional for volunteers.

6 SECTION 1.04. Section 418.013, Government Code, is amended
7 by amending Subsection (b) and adding Subsection (d) to read as
8 follows:

9 (b) The emergency management council is composed of
10 representatives [~~the heads~~] of state agencies, boards, [~~and~~]
11 commissions, and [~~representatives of~~] organized volunteer groups
12 designated by the head of each entity.

13 (d) The emergency management council shall assist the
14 division in identifying, mobilizing, and deploying state resources
15 to respond to major emergencies and disasters throughout the state.

16 SECTION 1.05. Subsection (a), Section 418.042, Government
17 Code, is amended to read as follows:

18 (a) The division shall prepare and keep current a
19 comprehensive state emergency management plan. The plan may
20 include:

21 (1) provisions for prevention and minimization of
22 injury and damage caused by disaster;

23 (2) provisions for prompt and effective response to
24 disaster;

25 (3) provisions for emergency relief;

26 (4) provisions for energy emergencies;

27 (5) identification of areas particularly vulnerable

- 1 to disasters;
- 2 (6) recommendations for zoning, building
3 restrictions, and other land-use controls, safety measures for
4 securing mobile homes or other nonpermanent or semipermanent
5 structures, and other preventive and preparedness measures
6 designed to eliminate or reduce disasters or their impact;
- 7 (7) provisions for assistance to local officials in
8 designing local emergency management plans;
- 9 (8) authorization and procedures for the erection or
10 other construction of temporary works designed to protect against
11 or mitigate danger, damage, or loss from flood, fire, or other
12 disaster;
- 13 (9) preparation and distribution to the appropriate
14 state and local officials of state catalogs of federal, state, and
15 private assistance programs;
- 16 (10) organization of manpower and channels of
17 assistance;
- 18 (11) coordination of federal, state, and local
19 emergency management activities;
- 20 (12) coordination of the state emergency management
21 plan with the emergency management plans of the federal government;
- 22 (13) coordination of federal and state energy
23 emergency plans;
- 24 (14) provisions for providing information to
25 ~~[education and training of]~~ local officials on activation of the
26 Emergency Alert System established under 47 C.F.R. Part 11; ~~[and]~~
- 27 (15) a database of public facilities that may be used

1 under Section 418.017 to shelter individuals during a disaster,
2 including air-conditioned facilities for shelter during an extreme
3 heat disaster and fortified structures for shelter during a wind
4 disaster; and

5 (16) other necessary matters relating to disasters.

6 SECTION 1.06. Subchapter C, Chapter 418, Government Code,
7 is amended by adding Section 418.0425 to read as follows:

8 Sec. 418.0425. STATE EMERGENCY MANAGEMENT PLAN ANNEX. (a)

9 In this section, "critical water or wastewater facility" means a
10 facility with:

11 (1) water supply, treatment, or distribution
12 equipment that is essential to maintain the minimum water pressure
13 requirements established by the governing body of a municipality or
14 the Texas Commission on Environmental Quality; or

15 (2) wastewater collection or treatment equipment that
16 is essential to prevent the discharge of untreated wastewater to
17 water in the state.

18 (b) The division, in cooperation with the emergency
19 management council, local governments, regional entities, health
20 and medical facilities, volunteer groups, private sector partners,
21 the Federal Emergency Management Agency, and other federal
22 agencies, shall develop an annex to the state emergency management
23 plan that addresses initial response planning for providing
24 essential population support supplies, equipment, and services
25 during the first five days immediately following a disaster. The
26 annex must include:

27 (1) plans to make fuel available to, maintain

1 continuing operations of, and assess the backup power available
2 for, all:

3 (A) hospitals;
4 (B) prisons;
5 (C) assisted living facilities licensed under
6 Chapter 247, Health and Safety Code;
7 (D) institutions licensed under Chapter 242,
8 Health and Safety Code; and
9 (E) other critical facilities determined by the
10 division;

11 (2) provisions for interagency coordination of
12 disaster response efforts;

13 (3) provisions for the rapid gross assessment of
14 population support needs;

15 (4) plans for the clearance of debris from major
16 roadways to facilitate emergency response operations and delivery
17 of essential population support supplies and equipment;

18 (5) methods to obtain food, water, and ice for
19 disaster victims through prearranged contracts or suppliers,
20 stockpiled supplies, or plans to request assistance from federal
21 agencies, as appropriate;

22 (6) guidelines for arranging temporary points of
23 distribution for disaster relief supplies and standardized
24 procedures for operating those distribution points;

25 (7) methods for providing basic medical support for
26 disaster victims, including medical supplies and pharmaceuticals;

27 (8) provisions, developed in coordination with fuel

1 suppliers and retailers, for the continued operation of service
2 stations to provide fuel to disaster victims and emergency
3 responders; and

4 (9) provisions for the dissemination of emergency
5 information through the media to aid disaster victims.

6 (c) The division, in coordination with the Texas Commission
7 on Environmental Quality and electric, gas, water, and wastewater
8 utility providers, shall develop for inclusion in the annex to the
9 state emergency management plan provisions to provide emergency or
10 backup power to restore or continue the operation of critical water
11 or wastewater facilities following a disaster. The provisions must:

12 (1) establish an online resource database of available
13 emergency generators configured for transport that are capable of
14 providing backup power for critical water or wastewater facilities
15 following a disaster;

16 (2) include procedures for the maintenance,
17 activation, transportation, and redeployment of available
18 emergency generators;

19 (3) develop a standardized form for use by a water or
20 wastewater utility provider in developing and maintaining data on
21 the number and type of emergency generators required for the
22 operation of the provider's critical water or wastewater facilities
23 following a disaster; and

24 (4) include procedures for water or wastewater utility
25 providers to maintain a current list of generators available in
26 surrounding areas through mutual aid agreements and through
27 commercial firms offering generators for rent or lease.

1 SECTION 1.07. Section 418.043, Government Code, is amended
2 to read as follows:

3 Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

4 (1) determine requirements of the state and its
5 political subdivisions for food, clothing, and other necessities in
6 event of a disaster;

7 (2) procure and position supplies, medicines,
8 materials, and equipment;

9 (3) adopt standards and requirements for local and
10 interjurisdictional emergency management plans;

11 (4) periodically review local and interjurisdictional
12 emergency management plans;

13 (5) coordinate deployment of mobile support units;

14 (6) establish and operate training programs and
15 programs of public information or assist political subdivisions and
16 emergency management agencies to establish and operate the
17 programs;

18 (7) make surveys of public and private industries,
19 resources, and facilities in the state that are necessary to carry
20 out the purposes of this chapter;

21 (8) plan and make arrangements for the availability
22 and use of any private facilities, services, and property and
23 provide for payment for use under terms and conditions agreed on if
24 the facilities are used and payment is necessary;

25 (9) establish a register of persons with types of
26 training and skills important in disaster mitigation,
27 preparedness, response, and recovery;

- 1 (10) establish a register of mobile and construction
2 equipment and temporary housing available for use in a disaster;
- 3 (11) assist political subdivisions in developing
4 plans for the humane evacuation, transport, and temporary
5 sheltering of service animals and household pets in a disaster;
- 6 (12) prepare, for issuance by the governor, executive
7 orders and regulations necessary or appropriate in coping with
8 disasters;
- 9 (13) cooperate with the federal government and any
10 public or private agency or entity in achieving any purpose of this
11 chapter and in implementing programs for disaster mitigation,
12 preparation, response, and recovery; ~~and~~
- 13 (14) develop a plan to raise public awareness and
14 expand the capability of the information and referral network under
15 Section 531.0312;
- 16 (15) improve the integration of volunteer groups,
17 including faith-based organizations, into emergency management
18 plans;
- 19 (16) cooperate with the Federal Emergency Management
20 Agency to create uniform guidelines for acceptable home repairs
21 following disasters and promote public awareness of the guidelines;
- 22 (17) cooperate with state agencies to:
- 23 (A) encourage the public to participate in
24 volunteer emergency response teams and organizations that respond
25 to disasters; and
- 26 (B) provide information on those programs in
27 state disaster preparedness and educational materials and on

1 Internet websites;

2 (18) establish a liability awareness program for
3 volunteers, including medical professionals; and

4 (19) do other things necessary, incidental, or
5 appropriate for the implementation of this chapter.

6 SECTION 1.08. Section 418.045, Government Code, is amended
7 to read as follows:

8 Sec. 418.045. TEMPORARY PERSONNEL. (a) The division may
9 employ or contract with temporary personnel from funds appropriated
10 to the division, from federal funds, or from the disaster
11 contingency fund. The merit system does not apply to the temporary
12 or contract positions.

13 (b) The division may enroll, organize, train, and equip a
14 cadre of disaster reservists with specialized skills in disaster
15 recovery, hazard mitigation, community outreach, and public
16 information to temporarily augment its permanent staff. The
17 division may activate enrolled disaster reservists to support
18 recovery operations in the aftermath of a disaster or major
19 emergency and pay them at a daily rate commensurate with their
20 qualifications and experience. Chapter 654, Chapter 2254, and
21 Subtitle D, Title 10, do not apply in relation to a disaster
22 reservist under this subsection.

23 SECTION 1.09. Section 418.048, Government Code, is amended
24 to read as follows:

25 Sec. 418.048. MONITORING WEATHER[~~, SUSPENSION OF WEATHER~~
26 ~~MODIFICATION~~]. ~~[(a)]~~ The division shall keep continuously
27 apprised of weather conditions that present danger of climatic

1 activity, such as precipitation, severe enough to constitute a
2 disaster.

3 ~~[(b) If the division determines that precipitation that may
4 result from weather modification operations, either by itself or in
5 conjunction with other precipitation or climatic conditions or
6 activity, would create or contribute to the severity of a disaster,
7 it shall request in the name of the governor that the officer or
8 agency empowered to issue permits for weather modification
9 operations suspend the issuance of permits. On the governor's
10 request, no permits may be issued until the division informs the
11 officer or agency that the danger has passed.]~~

12 SECTION 1.10. Subchapter C, Chapter 418, Government Code,
13 is amended by adding Section 418.050 to read as follows:

14 Sec. 418.050. PHASED REENTRY PLAN. (a) The division shall
15 develop a phased reentry plan to govern the order in which
16 particular groups of people are allowed to reenter areas previously
17 evacuated because of a disaster or threat of disaster. The plan may
18 provide different reentry procedures for different types of
19 disasters.

20 (b) The phased reentry plan shall:

21 (1) recognize the role of local emergency management
22 directors in making decisions regarding the timing and
23 implementation of reentry plans for a disaster; and

24 (2) provide local emergency management directors with
25 sufficient flexibility to adjust the plan as necessary to
26 accommodate the circumstances of a particular emergency.

27 (c) The division, in consultation with representatives of

1 affected parties and local emergency management directors, shall
2 develop a reentry credentialing process. The division shall
3 include the credentialing process in the phased reentry plan. The
4 Department of Public Safety of the State of Texas shall provide
5 support for the credentialing process.

6 SECTION 1.11. Subchapter C, Chapter 418, Government Code,
7 is amended by adding Section 418.051 to read as follows:

8 Sec. 418.051. COMMUNICATIONS COORDINATION GROUP. (a) The
9 communications coordination group shall facilitate interagency
10 coordination and collaboration to provide efficient and effective
11 planning and execution of communications support to joint,
12 interagency, and intergovernmental task forces.

13 (b) At the direction of the division, the communications
14 coordination group shall assist with coordination and
15 collaboration during an emergency.

16 (c) The communications coordination group consists of
17 members selected by the division, including representatives of:

18 (1) the Texas military forces;

19 (2) the Department of Public Safety of the State of
20 Texas;

21 (3) the Federal Emergency Management Agency;

22 (4) federal agencies that comprise Emergency Support
23 Function No. 2;

24 (5) the telecommunications industry, including cable
25 service providers, as defined by Section 66.002, Utilities Code;

26 (6) electric utilities, as defined by Section 31.002,
27 Utilities Code;

- 1 (7) gas utilities, as defined by Sections 101.003 and
2 121.001, Utilities Code;
- 3 (8) the National Guard's Joint Continental United
4 States Communications Support Environment;
- 5 (9) the National Guard Bureau;
- 6 (10) amateur radio operator groups;
- 7 (11) the Texas Forest Service;
- 8 (12) the Texas Department of Transportation;
- 9 (13) the General Land Office;
- 10 (14) the Texas Engineering Extension Service of The
11 Texas A&M University System;
- 12 (15) the Public Utility Commission of Texas;
- 13 (16) the Railroad Commission of Texas;
- 14 (17) the Department of State Health Services;
- 15 (18) the judicial branch of state government;
- 16 (19) the Texas Association of Regional Councils;
- 17 (20) the United States Air Force Auxiliary Civil Air
18 Patrol, Texas Wing;
- 19 (21) each trauma service area regional advisory
20 council;
- 21 (22) state agencies, counties, and municipalities
22 affected by the emergency; and
- 23 (23) other agencies as determined by the division.

24 SECTION 1.12. Section 418.1015, Government Code, is amended
25 by adding Subsection (d) to read as follows:

26 (d) A person, other than an emergency management director
27 exercising under Subsection (b) a power granted to the governor,

1 may not seize state or federal resources without prior
2 authorization from the division or the state or federal agency
3 having responsibility for those resources.

4 SECTION 1.13. Subsection (b), Section 418.107, Government
5 Code, is amended to read as follows:

6 (b) Political subdivisions may make agreements for the
7 purpose of organizing emergency management service divisions and
8 provide for a mutual method of financing the organization of units
9 on a basis satisfactory to the subdivisions. [~~The functioning of~~
10 ~~the units shall be coordinated by the emergency management~~
11 ~~council.~~]

12 SECTION 1.14. Subsection (d), Section 418.108, Government
13 Code, is amended to read as follows:

14 (d) A declaration of local disaster activates the
15 appropriate recovery and rehabilitation aspects of all applicable
16 local or interjurisdictional emergency management plans and
17 authorizes the furnishing of aid and assistance under the
18 declaration. The appropriate preparedness and response aspects of
19 the plans are activated as provided in the plans and take effect
20 immediately after the local state of disaster is declared.

21 SECTION 1.15. Section 418.117, Government Code, is amended
22 to read as follows:

23 Sec. 418.117. LICENSE PORTABILITY. If the assistance of a
24 person who holds a license, certificate, permit, or other document
25 evidencing qualification in a professional, mechanical, or other
requested by a state agency or local government entity
system, the person is considered licensed, certified,

1 permitted, or otherwise documented in the political subdivision in
2 which the service is provided as long as the service is required,
3 subject to any limitations imposed by the chief executive officer
4 or the governing body of the requesting state agency or local
5 government entity.

6 SECTION 1.16. Subsection (b), Section 418.172, Government
7 Code, is amended to read as follows:

8 (b) If sufficient funds are not available for the required
9 insurance, an agency may request funding from [~~petition~~] the
10 disaster contingency fund [~~emergency funding board~~] to purchase the
11 insurance [~~on the agency's behalf. The board may spend money from~~
12 ~~that fund for that purpose~~].

13 SECTION 1.17. Subchapter H, Chapter 418, Government Code,
14 is amended by adding Sections 418.185, 418.188, 418.1881, 418.1882,
15 418.190, and 418.191 to read as follows:

16 Sec. 418.185. MANDATORY EVACUATION. (a) This section does
17 not apply to a person who is authorized to be in an evacuated area,
18 including a person who returns to the area under a phased reentry
19 plan or credentialing process under Section 418.050.

20 (b) A county judge or mayor of a municipality who orders the
21 evacuation of an area stricken or threatened by a disaster by order
22 may compel persons who remain in the evacuated area to leave and
23 authorize the use of reasonable force to remove persons from the
24 area.

25 (c) The governor and a county judge or mayor of a
26 municipality who orders the evacuation of an area stricken or
27 threatened by a disaster by a concurrent order may compel persons

1 who remain in the evacuated area to leave.

2 (d) A person is civilly liable to a governmental entity, or
3 a nonprofit agency cooperating with a governmental entity, that
4 conducts a rescue on the person's behalf for the cost of the rescue
5 effort if:

6 (1) the person knowingly ignored a mandatory
7 evacuation order under this section and:

8 (A) engaged in an activity or course of action
9 that a reasonable person would not have engaged in; or

10 (B) failed to take a course of action a
11 reasonable person would have taken;

12 (2) the person's actions under Subdivision (1) placed
13 the person or another person in danger; and

14 (3) a governmental rescue effort was undertaken on the
15 person's behalf.

16 (e) An officer or employee of the state or a political
17 subdivision who issues or is working to carry out a mandatory
18 evacuation order under this section is immune from civil liability
19 for any act or omission within the course and scope of the person's
20 authority under the order.

21 Sec. 418.188. POSTDISASTER EVALUATION. Not later than the
22 90th day after the date a request is received from the division, a
23 state agency, political subdivision, or interjurisdictional agency
24 shall conduct an evaluation of the entity's response to a disaster,
25 identify areas for improvement, and issue a report of the
26 evaluation to the division.

27 Sec. 418.1881. SHELTER OPERATIONS. The Department of State

1 Health Services shall develop, with the direction, oversight, and
2 approval of the division, an annex to the state emergency
3 management plan that includes provisions for:

4 (1) developing medical special needs categories;

5 (2) categorizing the requirements of individuals with
6 medical special needs; and

7 (3) establishing minimum health-related standards for
8 short-term and long-term shelter operations for shelters operated
9 with state funds or receiving state assistance.

10 Sec. 418.1882. PERSONNEL SURGE CAPACITY PLANNING.

11 (a) With the direction, oversight, and approval of the division
12 and the assistance of the Department of State Health Services,
13 health care facilities, county officials, trauma service area
14 regional advisory councils, and other appropriate entities, each
15 council of government, regional planning commission, or similar
16 regional planning agency created under Chapter 391, Local
17 Government Code, shall develop a regional plan for personnel surge
18 capacity during disasters, including plans for providing lodging
19 and meals for disaster relief workers and volunteers.

20 (b) Entities developing regional plans for personnel surge
21 capacity with regard to lodging shall consult with representatives
22 of emergency responders, infrastructure and utility repair
23 personnel, and other representatives of agencies, entities, or
24 businesses determined by the division to be essential to the
25 planning process.

26 Sec. 418.190. AGRICULTURE EMERGENCY RESPONSE PLAN. (a) In
27 coordination with the division, the Department of Agriculture and

1 the Texas Animal Health Commission shall prepare and keep current
2 an agriculture emergency response plan as an annex to the state
3 emergency management plan. The plan must include provisions for:

4 (1) identifying and assessing necessary training,
5 resource, and support requirements;

6 (2) providing information on recovery, relief, and
7 assistance requirements following all types of disasters,
8 including information on biological and radiological response; and

9 (3) all other information the Department of
10 Agriculture and the Texas Animal Health Commission determine to be
11 relevant to prepare for an all-hazards approach to agricultural
12 disaster management.

13 (b) The Department of Agriculture and the Texas Animal
14 Health Commission shall include the plan developed under Subsection
15 (a) in an annual report to the legislature and the office of the
16 governor.

17 Sec. 418.191. MEDICAL SPECIAL NEEDS VOLUNTEERS. (a) An
18 entity responsible for the care of individuals with medical special
19 needs shall develop and distribute information on volunteering in
20 connection with a disaster.

21 (b) The division shall provide information to interested
22 parties and the public regarding how volunteers can be identified
23 and trained to help all groups of people, including those with
24 medical special needs and those who are residents of assisted
25 living facilities.

26 SECTION 1.18. Subchapter B, Chapter 242, Health and Safety
27 Code, is amended by adding Section 242.0395 to read as follows:

1 Sec. 242.0395. REGISTRATION WITH TEXAS INFORMATION AND
2 REFERRAL NETWORK. (a) An institution licensed under this chapter
3 shall register with the Texas Information and Referral Network
4 under Section 531.0312, Government Code, to assist the state in
5 identifying persons needing assistance if an area is evacuated
6 because of a disaster or other emergency.

7 (b) The institution is not required to identify individual
8 residents who may require assistance in an evacuation or to
9 register individual residents with the Texas Information and
10 Referral Network for evacuation assistance.

11 (c) The institution shall notify each resident and the
12 resident's next of kin or guardian regarding how to register for
13 evacuation assistance with the Texas Information and Referral
14 Network.

15 SECTION 1.19. Subchapter B, Chapter 247, Health and Safety
16 Code, is amended by adding Section 247.0275 to read as follows:

17 Sec. 247.0275. REGISTRATION WITH TEXAS INFORMATION AND
18 REFERRAL NETWORK. (a) An assisted living facility licensed under
19 this chapter shall register with the Texas Information and Referral
20 Network under Section 531.0312, Government Code, to assist the
21 state in identifying persons needing assistance if an area is
22 evacuated because of a disaster or other emergency.

23 (b) The assisted living facility is not required to identify
24 individual residents who may require assistance in an evacuation or
25 to register individual residents with the Texas Information and
26 Referral Network for evacuation assistance.

27 (c) The assisted living facility shall notify each resident

1 and the resident's next of kin or guardian regarding how to register
2 for evacuation assistance with the Texas Information and Referral
3 Network.

4 SECTION 1.20. Subdivisions (1) and (13-a), Section 541.201,
5 Transportation Code, are amended to read as follows:

6 (1) "Authorized emergency vehicle" means:

7 (A) a fire department or police vehicle;

8 (B) a public or private ambulance operated by a
9 person who has been issued a license by the Texas Department of
10 Health;

11 (C) a municipal department or public service
12 corporation emergency vehicle that has been designated or
13 authorized by the governing body of a municipality;

14 (D) a private vehicle of a volunteer firefighter
15 or a certified emergency medical services employee or volunteer
16 when responding to a fire alarm or medical emergency;

17 (E) an industrial emergency response vehicle,
18 including an industrial ambulance, when responding to an emergency,
19 but only if the vehicle is operated in compliance with criteria in
20 effect September 1, 1989, and established by the predecessor of the
21 Texas Industrial Emergency Services Board of the State Firemen's
22 and Fire Marshals' Association of Texas; [~~or~~]

23 (F) a vehicle of a blood bank or tissue bank,
24 accredited or approved under the laws of this state or the United
25 States, when making emergency deliveries of blood, drugs,
26 medicines, or organs; or

27 (G) a vehicle used for law enforcement purposes

1 that is owned or leased by a federal governmental entity.

2 (13-a) "Police vehicle" means a vehicle [~~of a~~
3 ~~governmental entity primarily~~] used by a peace officer, as defined
4 by Article 2.12, Code of Criminal Procedure, for law enforcement
5 purposes that:

6 (A) is owned or leased by a governmental entity;

7 (B) is owned or leased by the police department
8 of a private institution of higher education that commissions peace
9 officers under Section 51.212, Education Code; or

10 (C) is:

11 (i) a private vehicle owned or leased by the
12 peace officer; and

13 (ii) approved for use for law enforcement
14 purposes by the head of the law enforcement agency that employs the
15 peace officer, or by that person's designee, provided that use of
16 the private vehicle must, if applicable, comply with any rule
17 adopted by the commissioners court of a county under Section
18 170.001, Local Government Code.

19 SECTION 1.21. Subsection (b), Section 545.421,
20 Transportation Code, is amended to read as follows:

21 (b) A signal under this section that is given by a police
22 officer pursuing a vehicle may be by hand, voice, emergency light,
23 or siren. The officer giving the signal must be in uniform and
24 prominently display the officer's badge of office. The officer's
25 vehicle must bear the insignia of a law enforcement agency,
26 regardless of whether the vehicle displays an emergency light [~~be~~
27 ~~appropriately marked as an official police vehicle~~].

1 SECTION 1.22. Section 418.072, Government Code, is
2 repealed.

3 SECTION 1.23. On the effective date of this Act, the
4 disaster emergency funding board is abolished.

5 SECTION 1.24. The changes in law made by this Act by the
6 amendment of Section 418.005, Government Code, apply only to a law
7 enforcement officer or county judge elected or public officer
8 appointed on or after the effective date of this Act. A law
9 enforcement officer or county judge elected or public officer
10 appointed before the effective date of this Act is governed by the
11 law in effect immediately before that date, and the former law is
12 continued in effect for that purpose.

13 SECTION 1.25. Subsections (c-1) and (c-2), Section 37.108,
14 Education Code, as added by this Act, apply only to a request for
15 documents or information that is received by a school district on or
16 after the effective date of this Act. A request for documents or
17 information that was received before the effective date of this Act
18 is governed by the law in effect on the date the request was
19 received, and the former law is continued in effect for that
20 purpose.

21 SECTION 1.26. (a) Not later than the 30th day after the
22 effective date of this section, the division of emergency
23 management in the office of the governor shall issue a report to the
24 legislature regarding the implementation of medical special needs
25 plans in connection with Hurricane Ike, including identification,
26 evacuation, transportation, shelter, care, and reentry during the
27 period ending on the 30th day after the conclusion of the disaster.

1 The Department of State Health Services shall cooperate in the
2 preparation of the report.

3 (b) Subsection (a) of this section takes effect immediately
4 if this Act receives a vote of two-thirds of all the members elected
5 to each house, as provided by Section 39, Article III, Texas
6 Constitution. If this Act does not receive the vote necessary for
7 immediate effect, Subsection (a) of this section takes effect
8 September 1, 2009.

9 ARTICLE 2. EMERGENCY ELECTRICAL POWER

10 SECTION 2.01. Chapter 38, Utilities Code, is amended by
11 adding Subchapter E to read as follows:

12 SUBCHAPTER E. INFRASTRUCTURE IMPROVEMENT AND MAINTENANCE REPORT

13 Sec. 38.101. REPORT ON INFRASTRUCTURE IMPROVEMENT AND
14 MAINTENANCE. (a) Not later than May 1 of each year, each electric
15 utility shall submit to the commission a report describing the
16 utility's activities related to:

17 (1) identifying areas that are susceptible to damage
18 during severe weather and hardening transmission and distribution
19 facilities in those areas;

20 (2) vegetation management; and

21 (3) inspecting distribution poles.

22 (b) Each electric utility shall include in a report required
23 under Subsection (a) a summary of the utility's activities related
24 to preparing for emergency operations.

25 SECTION 2.02. The Public Utility Commission of Texas shall
26 adopt rules consistent with Subchapter E, Chapter 38, Utilities
27 Code, as added by this Act, not later than October 1, 2009.

1 ARTICLE 3. HEALTH AND SAFETY PROVISIONS

2 SECTION 3.01. Section 251.012, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 251.012. EXEMPTIONS FROM LICENSING REQUIREMENT. The
5 following facilities are not required to be licensed under this
6 chapter:

7 (1) a home and community support services agency
8 licensed under Chapter 142 with a home dialysis designation;

9 (2) a hospital licensed under Chapter 241 that
10 provides dialysis only to:

11 (A) individuals receiving inpatient services
12 from the hospital; or

13 (B) individuals receiving outpatient services
14 due to a disaster declared by the governor or a federal disaster
15 declared by the president of the United States occurring in this
16 state or another state during the term of the disaster declaration;
17 or

18 (3) the office of a physician unless the office is used
19 primarily as an end stage renal disease facility.

20 SECTION 3.02. Subtitle B, Title 8, Health and Safety Code,
21 is amended by adding Chapter 695 to read as follows:

22 CHAPTER 695. IN-CASKET IDENTIFICATION

23 Sec. 695.001. DEFINITIONS. In this chapter:

24 (1) "Casket" means a container used to hold the
25 remains of a deceased person.

26 (2) "Commission" means the Texas Funeral Service
27 Commission.

1 Sec. 695.002. IDENTIFICATION OF DECEASED PERSON. The
2 commission shall ensure a casket contains identification of the
3 deceased person, including the person's name, date of birth, and
4 date of death.

5 Sec. 695.003. RULES. The commission may adopt rules to
6 enforce this chapter.

7 SECTION 3.03. The change in law made by this Act by the
8 amendment of Section 251.012, Health and Safety Code, applies only
9 to dialysis services provided on or after the effective date of this
10 Act. Dialysis services provided before the effective date of this
11 Act are covered by the law in effect immediately before that date,
12 and the former law is continued in effect for that purpose.

13 ARTICLE 4. PROVISIONS RELATED TO CERTAIN PUBLIC EMPLOYEES

14 SECTION 4.01. Subchapter B, Chapter 659, Government Code,
15 is amended by adding Section 659.025 to read as follows:

16 Sec. 659.025. USE OF COMPENSATORY TIME BY CERTAIN EMERGENCY
17 SERVICES PERSONNEL; OPTIONAL OVERTIME PAYMENT. (a) In this
18 section, "emergency services personnel" includes firefighters,
19 police officers and other peace officers, emergency medical
20 technicians, emergency management personnel, and other individuals
21 who are required, in the course and scope of their employment, to
22 provide services for the benefit of the general public during
23 emergency situations.

24 (b) This section applies only to a state employee who is
25 emergency services personnel, who is not subject to the overtime
26 provisions of the federal Fair Labor Standards Act of 1938 (29
27 U.S.C. Section 201 et seq.), and who is not an employee of the

1 legislature, including an employee of the lieutenant governor or of
2 a legislative agency.

3 (c) Notwithstanding Section 659.016 or any other law, an
4 employee to whom this section applies may be allowed to take
5 compensatory time off during the 18-month period following the end
6 of the workweek in which the compensatory time was accrued.

7 (d) Notwithstanding Section 659.016 or any other law, the
8 administrative head of a state agency that employs an employee to
9 whom this section applies may pay the employee overtime at the
10 employee's regular hourly salary rate for all or part of the hours
11 of compensatory time off accrued by the employee during a declared
12 disaster in the preceding 18-month period. The administrative head
13 shall reduce the employee's compensatory time balance by one hour
14 for each hour the employee is paid overtime under this section.

15 SECTION 4.02. Subchapter H, Chapter 660, Government Code,
16 is amended by adding Section 660.209 to read as follows:

17 Sec. 660.209. STATE EMERGENCY SERVICES PERSONNEL. (a) In
18 this section, "emergency services personnel" includes
19 firefighters, police officers and other peace officers, emergency
20 medical technicians, emergency management personnel, and other
21 individuals who are required, in the course and scope of their
22 employment, to provide services for the benefit of the general
23 public during emergency situations.

24 (b) Notwithstanding any other provision of this chapter or
25 the General Appropriations Act, a state employee who is emergency
26 services personnel and who is deployed to a temporary duty station
27 to conduct emergency or disaster response activities is entitled to

1 reimbursement for the actual expense of lodging when there is no
2 room available at the state rate within reasonable proximity to the
3 employee's temporary duty station.

4 SECTION 4.03. Subdivision (1-a), Section 161.0001, Health
5 and Safety Code, is amended to read as follows:

6 (1-a) "First responder" means:

7 (A) any federal, state, local, or private
8 personnel who may respond to a disaster, including:

9 (i) public health and public safety
10 personnel;

11 (ii) commissioned law enforcement
12 personnel;

13 (iii) fire protection personnel, including
14 volunteer firefighters;

15 (iv) emergency medical services personnel,
16 including hospital emergency facility staff;

17 (v) a member of the National Guard;

18 (vi) a member of the Texas State Guard; or

19 (vii) any other worker who responds to a
20 disaster in the worker's scope of employment; or

21 (B) any related personnel that provide support
22 services during the prevention, response, and recovery phases of a
23 disaster [~~has the meaning assigned by Section 421.095, Government~~
24 ~~Code~~].

25 ARTICLE 5. JUDICIAL PREPAREDNESS

26 SECTION 5.01. Subchapter A, Chapter 22, Government Code, is
27 amended by adding Section 22.0035 to read as follows:

1 Sec. 22.0035. MODIFICATION OR SUSPENSION OF CERTAIN
2 PROVISIONS RELATING TO COURT PROCEEDINGS AFFECTED BY DISASTER. (a)
3 In this section, "disaster" has the meaning assigned by Section
4 418.004.

5 (b) Notwithstanding any other statute, the supreme court
6 may modify or suspend procedures for the conduct of any court
7 proceeding affected by a disaster during the pendency of a disaster
8 declared by the governor. An order under this section may not
9 extend for more than 30 days from the date the order was signed
10 unless renewed by the supreme court.

11 (c) If a disaster prevents the supreme court from acting
12 under Subsection (b), the chief justice of the supreme court may act
13 on behalf of the supreme court under that subsection.

14 (d) If a disaster prevents the chief justice from acting
15 under Subsection (c), the court of criminal appeals may act on
16 behalf of the supreme court under Subsection (b).

17 (e) If a disaster prevents the court of criminal appeals
18 from acting under Subsection (d), the presiding judge of the court
19 of criminal appeals may act on behalf of the supreme court under
20 Subsection (b).

21 SECTION 5.02. Section 74.093(c), Government Code, is
22 amended to read as follows:

23 (c) The rules may provide for:

24 (1) the selection and authority of a presiding judge
25 of the courts giving preference to a specified class of cases, such
26 as civil, criminal, juvenile, or family law cases; ~~and~~

27 (2) a coordinated response for the transaction of

1 essential judicial functions in the event of a disaster; and

2 (3) any other matter necessary to carry out this
3 chapter or to improve the administration and management of the
4 court system and its auxiliary services.

5 SECTION 5.03. Section 418.002, Government Code, is amended
6 to read as follows:

7 Sec. 418.002. PURPOSES. The purposes of this chapter are
8 to:

9 (1) reduce vulnerability of people and communities of
10 this state to damage, injury, and loss of life and property
11 resulting from natural or man-made catastrophes, riots, or hostile
12 military or paramilitary action;

13 (2) prepare for prompt and efficient rescue, care, and
14 treatment of persons victimized or threatened by disaster;

15 (3) provide a setting conducive to the rapid and
16 orderly restoration and rehabilitation of persons and property
17 affected by disasters;

18 (4) clarify and strengthen the roles of the governor,
19 state agencies, the judicial branch of state government, and local
20 governments in prevention of, preparation for, response to, and
21 recovery from disasters;

22 (5) authorize and provide for cooperation in disaster
23 mitigation, preparedness, response, and recovery;

24 (6) authorize and provide for coordination of
25 activities relating to disaster mitigation, preparedness,
26 response, and recovery by agencies and officers of this state, and
27 similar state-local, interstate, federal-state, and foreign

1 activities in which the state and its political subdivisions may
2 participate;

3 (7) provide an emergency management system embodying
4 all aspects of predisaster preparedness and postdisaster response;

5 (8) assist in mitigation of disasters caused or
6 aggravated by inadequate planning for and regulation of public and
7 private facilities and land use; and

8 (9) provide the authority and mechanism to respond to
9 an energy emergency.

10 SECTION 5.04. This article takes effect immediately if this
11 Act receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this article takes effect September 1, 2009.

15 ARTICLE 6. EFFECTIVE DATE

16 SECTION 6.01. Except as otherwise provided by this Act,
17 this Act takes effect September 1, 2009.

ADOPTED

MAY 23 2009

Patricia Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *J. Smith*

1 Amend C.S.H.B. No. 1831 (senate committee printing) by adding
2 the following appropriately numbered article to the bill and
3 renumbering subsequent articles of the bill accordingly:

4 ARTICLE __. EMERGENCY WATER SERVICE

5 SECTION ____ .01. Subchapter E, Chapter 13, Water Code, is
6 amended by adding Sections 13.1395 and 13.1396 to read as follows:

7 Sec. 13.1395. STANDARDS OF EMERGENCY OPERATIONS. (a) In
8 this section:

9 (1) "Affected utility" means a retail public utility,
10 exempt utility, or provider or conveyor of potable or raw water
11 service that furnishes water service to more than one customer:

12 (A) in a county with a population of 3.3 million
13 or more; or

14 (B) in a county with a population of 400,000 or
15 more adjacent to a county with a population of 3.3 million or more.

16 (2) "Emergency operations" means the operation of a
17 water system during an extended power outage at a minimum water
18 pressure of 35 pounds per square inch.

19 (3) "Extended power outage" means a power outage
20 lasting for more than 24 hours.

21 (b) An affected utility shall:

22 (1) ensure the emergency operation of its water system
23 during an extended power outage as soon as safe and practicable
24 following the occurrence of a natural disaster; and

25 (2) adopt and submit to the commission for its
26 approval an emergency preparedness plan that demonstrates the
27 utility's ability to provide emergency operations.

28 (c) The commission shall review an emergency preparedness
29 plan submitted under Subsection (b). If the commission determines

1 that the plan is not acceptable, the commission shall recommend
2 changes to the plan. The commission must make its recommendations
3 on or before the 90th day after the commission receives the plan.
4 In accordance with commission rules, an emergency preparedness plan
5 shall provide for one of the following:

6 (1) the maintenance of automatically starting
7 auxiliary generators;

8 (2) the sharing of auxiliary generator capacity with
9 one or more affected utilities;

10 (3) the negotiation of leasing and contracting
11 agreements, including emergency mutual aid agreements with other
12 retail public utilities, exempt utilities, or providers or
13 conveyors of potable or raw water service, if the agreements
14 provide for coordination with the division of emergency management
15 in the governor's office;

16 (4) the use of portable generators capable of serving
17 multiple facilities equipped with quick-connect systems;

18 (5) the use of on-site electrical generation or
19 distributed generation facilities;

20 (6) hardening the electric transmission and
21 distribution system serving the water system;

22 (7) for existing facilities, the maintenance of direct
23 engine or right angle drives; or

24 (8) any other alternative determined by the commission
25 to be acceptable.

26 (d) Each affected utility that supplies, provides, or
27 conveys surface water shall include in its emergency preparedness
28 plan under Subsection (b) provisions for the actual installation
29 and maintenance of automatically starting auxiliary generators or
30 distributive generation facilities for each raw water intake pump
31 station, water treatment plant, pump station, and pressure facility

1 necessary to provide water to its wholesale customers.

2 (e) The commission shall adopt rules to implement this
3 section as an alternative to any rule requiring elevated storage.

4 (f) The commission shall provide an affected utility with
5 access to the commission's financial, managerial, and technical
6 contractors to assist the utility in complying with the applicable
7 emergency preparedness plan submission deadline.

8 (g) The commission by rule shall create an emergency
9 preparedness plan template for use by an affected utility when
10 submitting a plan under this section. The emergency preparedness
11 plan template shall contain:

12 (1) a list and explanation of the preparations an
13 affected utility may make under Subsection (c) for the commission
14 to approve the utility's emergency preparedness plan; and

15 (2) a list of all commission rules and standards
16 pertaining to emergency preparedness plans.

17 (h) An emergency generator used as part of an approved
18 emergency preparedness plan under Subsection (c) must be operated
19 and maintained according to the manufacturer's specifications.

20 (i) The commission shall inspect each utility to ensure that
21 the utility complies with the approved plan.

22 (j) The commission may grant a waiver of the requirements of
23 this section to an affected utility if the commission determines
24 that compliance with this section will cause a significant
25 financial burden on customers of the affected utility.

26 (k) An affected utility may adopt and enforce limitations on
27 water use while the utility is providing emergency operations.

28 (l) Except as specifically required by this section,
29 information provided by an affected utility under this section is
30 confidential and is not subject to disclosure under Chapter 552,
31 Government Code.

1 Sec. 13.1396. COORDINATION OF EMERGENCY OPERATIONS.

2 (a) In this section:

3 (1) "Affected utility" has the meaning assigned by
4 Section 13.1395.

5 (2) "County judge" means a county judge or the person
6 designated by a county judge.

7 (3) "Electric utility" means the electric
8 transmission and distribution utility providing electric service
9 to the water and wastewater facilities of an affected utility.

10 (4) "Retail electric provider" has the meaning
11 assigned by Section 31.002, Utilities Code.

12 (b) An affected utility shall submit to the county judge,
13 the office of emergency management of each county in which the
14 utility has more than one customer, the Public Utility Commission
15 of Texas, and the office of emergency management of the governor, a
16 copy of:

17 (1) the affected utility's emergency preparedness plan
18 approved under Section 13.1395; and

19 (2) the commission's notification to the affected
20 utility that the plan is accepted.

21 (c) Each affected utility shall submit to the county judge
22 and the office of emergency management of each county in which the
23 utility has water and wastewater facilities that qualify for
24 critical load status under rules adopted by the Public Utility
25 Commission of Texas, and to the Public Utility Commission of Texas
26 and the division of emergency management of the governor:

27 (1) information identifying the location and
28 providing a general description of all water and wastewater
29 facilities that qualify for critical load status; and

30 (2) emergency contact information for the affected
31 utility, including:

1 (A) the person who will serve as a point of
2 contact and the person's telephone number;

3 (B) the person who will serve as an alternative
4 point of contact and the person's telephone number; and

5 (C) the affected utility's mailing address.

6 (d) An affected utility shall immediately update the
7 information provided under Subsection (c) as changes to the
8 information occur.

9 (e) Not later than February 1 of each year, the county judge
10 of each county that receives the information required by
11 Subsections (c) and (d) shall:

12 (1) submit the information for each affected utility
13 to each retail electric provider that sells electric power to an
14 affected utility and each electric utility that provides
15 transmission and distribution service to an affected utility; and

16 (2) in cooperation with the affected utility, submit
17 for each affected utility any forms reasonably required by an
18 electric utility or retail electric provider for determining
19 critical load status, including a critical care eligibility
20 determination form or similar form.

21 (f) Not later than May 1 of each year, each electric utility
22 and each retail electric provider shall determine whether the
23 facilities of the affected utility qualify for critical load status
24 under rules adopted by the Public Utility Commission of Texas.

25 (g) If an electric utility determines that an affected
26 utility's facilities do not qualify for critical load status, the
27 electric utility and the retail electric provider, not later than
28 the 30th day after the date the electric utility or retail electric
29 provider receives the information required by Subsections (c) and
30 (d), shall provide a detailed explanation of the electric utility's
31 determination to each county judge that submitted the information.

1 SECTION ____ .02. (a) Not later than December 1, 2009, the
2 Texas Commission on Environmental Quality shall adopt standards as
3 required by Section 13.1395, Water Code, as added by this article.
4 As part of the rulemaking process, the commission shall conduct at
5 least two public hearings in Harris County. The commission shall
6 issue a report to the governor, lieutenant governor, and speaker of
7 the house of representatives if the commission is unable to adopt
8 the standards by the time provided by this subsection.

9 (b) Not later than November 1, 2009, each affected utility
10 shall submit the information required by Section 13.1396, Water
11 Code, as added by this article, to:

12 (1) each appropriate county judge and office of
13 emergency management;

14 (2) the Public Utility Commission of Texas; and

15 (3) the office of emergency management of the
16 governor.

17 (c) Not later than March 1, 2010, each affected utility
18 shall submit to the Texas Commission on Environmental Quality the
19 emergency preparedness plan required by Section 13.1395, Water
20 Code, as added by this article.

21 (d) Not later than July 1, 2010, each affected utility shall
22 implement the emergency preparedness plan approved by the Texas
23 Commission on Environmental Quality under Section 13.1395, Water
24 Code, as added by this article.

ADOPTED

MAY 23 2009

Atay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO.

2

BY:

Robley Ellis

Amend H.B. No. 1831 (senate committee printing) as follows:

(1) Add the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumber subsequent SECTIONS of that ARTICLE as appropriate:

SECTION 1.____ Subchapter B, Chapter 207, Labor Code, is amended by adding Section 207.0212 to read as follows:

Sec. 207.0212. ELIGIBILITY OF CERTAIN PERSONS UNEMPLOYED BECAUSE OF DISASTER. (a) In this section, "disaster unemployment assistance benefits" means benefits authorized under Section 410, Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5177), and rules adopted under that section.

(b) Notwithstanding Section 207.021, the governor, by executive order, may suspend the waiting period requirement imposed under Section 207.021(a)(7) to authorize an individual to receive benefits for that waiting period if the individual:

(1) is unemployed as a direct result of a natural disaster that results in a disaster declaration by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(2) is otherwise eligible for unemployment compensation benefits under this subtitle; and

(3) is not receiving disaster unemployment

assistance benefits for the period included in that waiting period.

(2) Add the following appropriately numbered SECTION to ARTICLE 6 of the bill and renumber subsequent SECTIONS of that ARTICLE as appropriate:

SECTION 6.____. The change in law made by SECTION 1.____ of this Act applies only to a claim for unemployment compensation benefits that is filed with the Texas Workforce Commission on or after the effective date of this Act. A claim filed before that date is governed by the law in effect on the date that the claim was filed, and the former law is continued in effect for that purpose.

3 ADOPTED

FLOOR AMENDMENT NO. _____

MAY 23 2009

BY: Nation

Atty. Gen.
Secretary of the Senate

1 Amend C.S.H.B. No. 1831 (committee printing) by adding the
2 following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTION accordingly.

4 SECTION ____ Subtitle G, Title 10, Government Code, is
5 amended by adding Chapter 2311 to read as follows:

6 CHAPTER 2311. ENERGY SECURITY TECHNOLOGIES FOR CRITICAL
7 GOVERNMENTAL FACILITIES

8 Sec. 2311.001. DEFINITIONS. In this chapter:

9 (1) "Combined heating and power system" means a
10 system that:

11 (A) is located on the site of a facility;

12 (B) is the primary source of both electricity
13 and thermal energy for the facility;

14 (C) can provide all of the electricity needed to
15 power the facility's critical emergency operations for at least
16 14 days; and

17 (D) has an overall efficiency of energy use that
18 exceeds 60 percent.

19 (2) "Critical governmental facility" means a building
20 owned by the state or a political subdivision of the state that
21 is expected to:

22 (A) be continuously occupied;

23 (B) maintain operations for at least 6,000 hours
24 each year;

25 (C) have a peak electricity demand exceeding 500
26 kilowatts; and

27 (D) serve a critical public health or public
28 safety function during a natural disaster or other emergency
29 situation that may result in a widespread power outage,

1 including a:

2 (i) command and control center;

3 (ii) shelter;

4 (iii) prison or jail;

5 (iv) police or fire station;

6 (v) communications or data center;

7 (vi) water or wastewater facility;

8 (vii) hazardous waste storage facility;

9 (viii) biological research facility;

10 (ix) hospital; or

11 (x) food preparation or food storage

12 facility.

13 Sec. 2311.002. COMBINED HEATING AND POWER SYSTEMS. When
14 constructing or extensively renovating a critical governmental
15 facility or replacing major heating, ventilation, and air-
16 conditioning equipment for a critical governmental facility, the
17 entity with charge and control of the facility shall evaluate
18 whether equipping the facility with a combined heating and power
19 system would result in expected energy savings that would exceed
20 the expected costs of purchasing, operating, and maintaining the
21 system over a 20-year period. Notwithstanding Chapter 2302, the
22 entity may equip the facility with a combined heating and power
23 system if the expected energy savings exceed the expected costs.

ADOPTED

MAY 23 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 4

1 Amend C.S.H.B. 1831 (senate committee printing) in ARTICLE
2 2 of the bill by adding appropriately numbered SECTIONS to read
3 as follows and renumbering subsequent SECTIONS appropriately:

4 SECTION __. Subchapter D, Chapter 38, Utilities Code, is
5 amended by adding Section 38.073 to read as follows:

6 Sec. 38.073. AUTHORITY OF COMMISSION DURING AN EMERGENCY.

7 (a) On a declaration of a natural disaster or other emergency
8 by the governor, the commission may require an electric utility,
9 municipally owned utility, electric cooperative, qualifying
10 facility, power generation company, exempt wholesale generator,
11 or power marketer to sell electricity to an electric utility,
12 municipally owned utility, or electric cooperative that is
13 unable to supply power to meet customer demand due to the
14 natural disaster or other emergency. Any plant, property,
15 equipment, or other items used to receive or deliver electricity
16 under this subsection are used and useful in delivering service
17 to the public, and the commission shall allow timely recovery
18 for the costs of those items. The commission may order an
19 electric utility, municipally owned utility, or electric
20 cooperative to provide interconnection service to another
21 electric utility, municipally owned utility, or electric
22 cooperative to facilitate a sale of electricity under this
23 section. If the commission does not order the sale of
24 electricity during a declared emergency as described by this
25 subsection, the commission shall promptly submit to the
26 legislature a report describing the reasons why the commission
27 did not make that order.

28 (b) If an entity receives electricity under Subsection
29 (a), the receiving entity shall reimburse the supplying entity

1 for the actual cost of providing the electricity. The entity
2 receiving the electricity is responsible for any transmission
3 and distribution service charges specifically incurred in
4 relation to providing the electricity.

5 (c) An entity that pays for electricity received under
6 Subsection (b) and that is regulated by the commission may fully
7 recover the cost of the electricity in a timely manner by:

8 (1) including the cost in the entity's fuel cost
9 under Section 36.203; or

10 (2) notwithstanding Section 36.201, imposing a
11 different surcharge.

12 SECTION __. (a) Not later than November 1, 2009, the
13 Public Utility Commission of Texas shall conduct and complete a
14 study to evaluate:

15 (1) the locations in this state that are most likely
16 to experience a natural disaster or other emergency;

17 (2) the ability of each entity described by
18 Subsection (a), Section 38.073, Utilities Code, as added by this
19 Act, to comply with that section in the event of a natural
20 disaster or other emergency;

21 (3) any steps an entity described by Subsection (a),
22 Section 38.073, Utilities Code, as added by this Act, should
23 take to prepare to comply with that section; and

24 (4) the potential for distributed generation,
25 including renewable power with battery backup and combined heat
26 and power systems, to strengthen reliability of electric service
27 during a natural disaster or other emergency.

28 (b) An entity described by Subsection (a), Section 38.073,
29 Utilities Code, as added by this Act, shall comply with any
30 order issued by the Public Utility Commission of Texas under
31 that subsection while the study required by Subsection (a) of

1 this section is conducted.

2 (c) The Public Utility Commission of Texas shall prepare a
3 report based on the study conducted under Subsection (a) of this
4 section. The report must include any recommendations the
5 commission considers advisable in relation to the implementation
6 of and compliance with Section 38.073, Utilities Code, as added
7 by this Act. The commission may include the report in the
8 report required by Section 31.003, Utilities Code.

ADOPTED

MAY 23 2009

FLOOR AMENDMENT NO. 5

Atty. Gen.
Secretary of the Senate

BY: *Zaffrini*

1 Amend C.S.H.B. No. 1831 (senate committee printing) by
2 adding the following appropriately numbered SECTION to the bill
3 and renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION ____ Subtitle F, Title 2, Health and Safety Code,
5 is amended by adding Chapter 123 to read as follows:

6 CHAPTER 123. PUBLIC HEALTH EXTENSION SERVICE PILOT PROGRAM

7 Sec. 123.001. DEFINITIONS. In this chapter:

8 (1) "Department" means the Department of State Health
9 Services; and

10 (2) "Program" means the public health extension
11 service pilot program established under this chapter.

12 Sec. 123.002. PROGRAM ESTABLISHED; PURPOSES. (a) The
13 department shall establish a public health extension service
14 pilot program in Health Service Region 11, a region of the state
15 that may be particularly vulnerable to biosecurity threats,
16 disaster, and other emergencies.

17 (b) The purpose of the program is to support local public
18 health and medical infrastructure, promote disease control and
19 medical preparedness, and enhance biosecurity, including
20 detection of dangerous biologic agents, availability of
21 pathology services, and management of hazardous materials.

22 Sec. 123.003. RULES. The executive commissioner of the
23 Health and Human Services Commission may adopt rules for the
24 implementation and administration of the program.

25 Sec. 123.004. PROGRAM ADMINISTRATION. The department may
26 contract with The Texas A&M University System or The University
27 of Texas System or both to implement or administer the program.

28 Sec. 123.005. PROGRAM OBJECTIVES. Through the program, the
29 department may implement projects and systems to accomplish the

1 purposes of the program described by Section 123.002, and may:

2 (1) provide support for regional disaster medical
3 assistance teams and tactical medical operations incident
4 management teams;

5 (2) establish a disaster training and exercise
6 program;

7 (3) establish and equip caches of necessary medical
8 supplies and equipment for use in disasters and other
9 emergencies;

10 (4) establish a regionally based system of emergency
11 medical logistics management to support state and federal
12 emergency management authorities, including local patient
13 triage sites and local emergency medical operations; and

14 (5) establish a regionally based system to provide
15 technical assistance for disaster mitigation and recovery.

16 Sec. 123.006. REPORT. Not later than December 1, 2010, the
17 department shall report to the governor, lieutenant governor,
18 and speaker of the house of representatives on the program,
19 including recommendations for continuing and expanding the
20 program to other regions of the state.

21 Sec. 123.007. EXPIRATION. This chapter expires and the
22 program is abolished September 2, 2011.

ADOPTED

FLOOR AMENDMENT NO. 6

MAY 23 2009

BY:

Mario Allegretti

Amend House Bill 1831 by adding the following ^{*Patricia Spaw*} appropriately numbered section:
Secretary of the Senate

SECTION ____ Sec. 418.016. SUSPENSION OF PROCEDURAL LAWS AND RULES.

(a) The governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

(b) Upon declaration of a state of disaster, enforcement of the regulation of on-premise outdoor signs under Subchapter A, Chapter 216, Local Government Code, by a municipality that is located in a county within, or that is located in a county adjacent to a county within, the disaster area specified by the declaration is suspended to allow licensed or admitted insurance carriers or licensed agents acting on behalf of insurance carriers to erect temporary claims service signage for not more than 60 days or until the end of the declaration of disaster, whichever is earlier.

(c) A temporary claims service sign shall not:

(1) be larger than forty square feet in size, and;

(2) be more than five feet in height, and;

(3) be placed in the right of way.

(4) At the end of the 30 days or the end of the declaration of disaster, whichever is earlier, the insurance carrier or its licensed agents must remove the temporary claims service signage that was erected.

ADOPTED

FLOOR AMENDMENT NO. 7

MAY 23 2009

BY:

Nichols

Henry Spaw
Secretary of the Senate

1 Amend House Bill 1831, Senate Committee Report version, by
2 adding the appropriately numbered SECTIONS:

3 SECTION __. Section 81.046, Health and Safety Code, is
4 amended by amending Subsections (a), (c), and (f) and adding
5 Subsection (g) to read as follows:

6 (a) Reports, records, and information received from any
7 source, including from a federal agency or from another state,
8 furnished to a public health district, a health authority, a
9 local health department, or the department that relate to cases
10 or suspected cases of diseases or health conditions are
11 confidential and may be used only for the purposes of this
12 chapter.

13 (c) Medical or epidemiological information may be
14 released:

15 (1) for statistical purposes if released in a manner
16 that prevents the identification of any person;

17 (2) with the consent of each person identified in the
18 information;

19 (3) to medical personnel treating the individual,
20 appropriate state agencies in this state or another state, a
21 health authority or local health department in this state or
22 another state, or federal, county, or ~~and~~ district courts to
23 comply with this chapter and related rules relating to the
24 control and treatment of communicable diseases and health
25 conditions or under another state or federal law that expressly
26 authorizes the disclosure of this information;

27 (4) to appropriate federal agencies, such as the
28 Centers for Disease Control and Prevention of the United States
29 Public Health Service, but the information must be limited to

1 the name, address, sex, race, and occupation of the patient, the
2 date of disease onset, the probable source of infection, and
3 other requested information relating to the case or suspected
4 case of a communicable disease or health condition; or

5 (5) to medical personnel to the extent necessary in a
6 medical emergency to protect the health or life of the person
7 identified in the information.

8 (f) Reports, records, and information relating to cases or
9 suspected cases of diseases or health conditions may be released
10 to the extent necessary during a public health disaster to law
11 enforcement personnel solely for the purpose of protecting the
12 health or life of the person identified in the report, record,
13 or information. Only the minimum necessary information may be
14 released under this subsection, as determined by the health
15 authority, the local health department, or the department.

16 (g) A judge of a county or district court may issue a
17 protective order or take other action to limit disclosure of
18 medical or epidemiological information obtained under this
19 section before that information is entered into evidence or
20 otherwise disclosed in a court proceeding.

21 SECTION __. Section 81.103, Health and Safety Code, is
22 amended by amending Subsection (b) and adding Subsection (k) to
23 read as follows:

24 (b) A test result may be released to:

25 (1) the department under this chapter;

26 (2) a local health authority if reporting is required
27 under this chapter;

28 (3) the Centers for Disease Control and Prevention of
29 the United States Public Health Service if reporting is required
30 by federal law or regulation;

31 (4) the physician or other person authorized by law

1 who ordered the test;

2 (5) a physician, nurse, or other health care
3 personnel who have a legitimate need to know the test result in
4 order to provide for their protection and to provide for the
5 patient's health and welfare;

6 (6) the person tested or a person legally authorized
7 to consent to the test on the person's behalf;

8 (7) the spouse of the person tested if the person
9 tests positive for AIDS or HIV infection, antibodies to HIV, or
10 infection with any other probable causative agent of AIDS;

11 (8) a person authorized to receive test results under
12 Article 21.31, Code of Criminal Procedure, concerning a person
13 who is tested as required or authorized under that article;
14 [and]

15 (9) a person exposed to HIV infection as provided by
16 Section 81.050; and

17 (10) a county or district court to comply with this
18 chapter or rules relating to the control and treatment of
19 communicable diseases and health conditions.

20 (k) A judge of a county or district court may issue a
21 protective order or take other action to limit disclosure of a
22 test result obtained under this section before that information
23 is entered into evidence or otherwise released in a court
24 proceeding.

ADOPTED

FLOOR AMENDMENT NO. 8

MAY 23 2009 BY: Nichols

Lacey Spaul
Secretary of the Senate

1 Amend CSHB 1831 Senate Committee Report version by
2 inserting the following appropriately numbered section and
3 renumbering subsequent sections:

4 SECTION ____ Chapter 342, Local Government Code, is
5 amended by adding Subchapter Z to read as follows:

6 SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

7 Sec. 342.901. TRANSPORT OF FIREWORKS. The transport of
8 fireworks in unopened and original packaging may not be
9 prohibited or regulated.

ADOPTED

FLOOR AMENDMENT NO. 9

MAY 23 2009

BY: Wendy R. Davis

Antony Spaul
Secretary of the Senate

1 Amend C.S.H.B. No. 1831 (senate committee report) by adding
2 the following SECTION to the bill and renumbering subsequent
3 SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter H, Chapter 660, Government Code,
5 is amended by adding Section 660.209 to read as follows:

6 Sec. 660.209. STATE EMERGENCY SERVICES PERSONNEL. (a) In
7 this section, "emergency services personnel" includes
8 firefighters, police officers and other peace officers,
9 emergency medical technicians, emergency management personnel,
10 and other individuals who are required, in the course and scope
11 of their employment, to provide services for the benefit of the
12 general public during emergency situations.

13 (b) Notwithstanding any other provision of this chapter or
14 the General Appropriations Act, a state employee who is
15 emergency services personnel and who is deployed to a temporary
16 duty station to conduct emergency or disaster response
17 activities is entitled to reimbursement for the actual expense
18 of lodging when there is no room available at the state rate
19 within reasonable proximity to the employee's temporary duty
20 station.

ADOPTED

MAY 23 2009

Leroy Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 10

BY: *Nelson*

1 Amend H.B. 1831 by adding the following appropriately
2 numbered section to the bill and renumbering subsequent sections
3 of the bill as appropriate:

4 (1) SECTION 1.07. Sec. 418.186. DISASTER AND EMERGENCY
5 EDUCATION. (a) The Department of State Health Services shall
6 establish a program designed to educate the citizens of this
7 state on disaster and emergency preparedness, response, and
8 recovery. Before establishing the program, the department must
9 collaborate with local authorities to prevent state efforts that
10 are duplicative of local efforts. The program must address:

11 (1) types of disasters or other emergencies;

12 (2) the appropriate response to each type of disaster
13 or emergency, including options for evacuation and shelter;

14 (3) how to prepare for each type of disaster or
15 emergency;

16 (4) the impact of each type of disaster or emergency
17 on citizens requiring medical assistance or other care;

18 (5) ways to respond in a disaster or emergency or to
19 assist the victims of a disaster or emergency; and

20 (6) resources and supplies for disaster or emergency
21 recovery.

22 (b) The executive commissioner of the Health and Human

1 Services Commission, in cooperation with the governor, shall
2 adopt rules to create and administer a disaster and emergency
3 education program established under this section.

ADOPTED

FLOOR AMENDMENT NO. 11

MAY 23 2009

BY:

Vandy Potts

1 Amend HB. NO. ¹⁸³¹ *Letay* by adding the following
2 appropriately numbered ^{Secretary of the Senate} SECTION to the bill and renumbering
3 subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subdivision (12), Section 771.001,
5 Health and Safety Code, is amended to read as follows:

6 (12) "Wireless service provider" means a provider of
7 commercial mobile service under Section 332(d), Federal
8 Telecommunications Act of 1996 (47 U.S.C. Section 151 et seq.),
9 Federal Communications Commission rules, and the Omnibus Budget
10 Reconciliation Act of 1993 (Pub. L. No. 103-66), and includes a
11 provider of wireless two-way communication service, radio-
12 telephone communications related to cellular telephone service,
13 network radio access lines or the equivalent, and personal
14 communication service. The term does not include a provider of:

15 (A) a service whose users do not have access to
16 9-1-1 service;

17 (B) a communication channel used only for data
18 transmission;

19 (C) a wireless roaming service or other nonlocal
20 radio access line service; [ex]

21 (D) a private telecommunications service; or

22 (E) a prepaid wireless telecommunications
23 service, as defined by Section 771.081, only to the extent of
24 the sale or provision of the service.

25 SECTION _____. Section 771.032, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 771.032. APPLICATION OF SUNSET ACT. (a) The
28 Commission on State Emergency Communications is subject to
29 Chapter 325, Government Code (Texas Sunset Act). Unless
30 continued in existence as provided by that chapter, the

1 commission is abolished and this chapter expires September 1,
2 2011.

3 (b) As part of the Sunset Advisory Commission's review
4 under Subsection (a), the Sunset Advisory Commission, in its
5 report to the 82nd Legislature, shall include:

6 (1) the effect of the prepaid wireless 9-1-1
7 emergency services fee on revenues collected and the extent to
8 which those revenues increased or decreased total revenues
9 attributable to wireless telecommunications services; and

10 (2) whether the total of all revenues received from
11 9-1-1 services fees adequately fund public safety in this state
12 at the time the review is conducted and whether the 9-1-1
13 services fees will continue to adequately fund public safety in
14 future years.

15 SECTION _____. Subsection (d), Section 771.056, Health and
16 Safety Code, is amended to read as follows:

17 (d) If the commission approves the plan, it shall allocate
18 to the region from the money collected under Sections 771.071,
19 771.0711, ~~and~~ 771.072, and 771.082 and appropriated to the
20 commission the amount that the commission considers appropriate
21 to operate 9-1-1 service in the region according to the plan and
22 contracts executed under Section 771.078.

23 SECTION _____. Section 771.075, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 771.075. USE OF REVENUE. Except as provided by
26 Section 771.0751, 771.0753, 771.072(e), 771.072(f), ~~[or]~~
27 771.073(e), or 771.082(g), fees and surcharges collected under
28 this subchapter and Subchapter D-1 may be used only for
29 planning, development, provision, and enhancement of the
30 effectiveness of 9-1-1 service as approved by the commission.

31 SECTION 5. Subchapter D, Chapter 771, Health and Safety

1 Code, is amended by adding Section 771.0753 to read as follows:

2 Sec. 771.0753. USE OF PREPAID WIRELESS 9-1-1 EMERGENCY
3 SERVICES FEE IN CERTAIN COUNTIES. (a) This section applies
4 only to the use of fees and surcharges collected under
5 Subchapter D-1 in:

6 (1) the county that has the highest population within
7 a region subject to Subchapter D-1; or

8 (2) a county subject to Subchapter D-1 with a
9 population of at least 700,000.

10 (b) In addition to use authorized or required by this
11 subchapter, fees collected under Subchapter D-1 may be used for
12 any costs considered necessary by the commission and
13 attributable to:

14 (1) designing a 9-1-1 system; or

15 (2) obtaining and maintaining equipment and personnel
16 necessary to establish and operate:

17 (A) a public safety answering point and related
18 operations; or

19 (B) other related answering points and
20 operations.

21 SECTION _____. Subsections (a), (d), and (e), Section
22 771.077, Health and Safety Code, are amended to read as follows:

23 (a) The comptroller may establish collection procedures to
24 collect past due amounts and may recover the costs of collection
25 from a service provider or business service user that fails to
26 timely deliver the fees and the equalization surcharge to the
27 comptroller. Subtitles A and B, Title 2, Tax Code, apply to the
28 administration and collection of amounts by the comptroller
29 under this subchapter. Section 771.084 applies to the
30 administration and collection of amounts by the comptroller
31 under Subchapter D-1.

1 (d) The comptroller shall:

2 (1) remit to the commission money collected under
3 this section for fees provided by Section 771.0711 and
4 associated late penalties;

5 (2) deposit to the 9-1-1 services fee account any
6 money collected under this section for fees provided by Section
7 771.071 and associated late penalties; ~~and~~

8 (3) deposit to the account as authorized by Section
9 771.072 any money collected under this section for fees provided
10 by Section 771.072 and associated late penalties; and

11 (4) remit to the commission any money collected under
12 this section for fees provided by Section 771.082 and associated
13 late penalties.

14 (e) The commission shall:

15 (1) deposit or distribute the money remitted under
16 Subsection (d)(1) as Section 771.0711 provides for fees received
17 under that section; ~~and~~

18 (2) distribute the money remitted under Subsection
19 (d)(2) and appropriated to the commission under contracts as
20 provided by Section 771.078(b)(1); and

21 (3) deposit or distribute the money remitted under
22 Subchapter D-1 as Section 771.082 provides for fees received
23 under that section.

24 SECTION _____. Subsection (b), Section 771.078, Health and
25 Safety Code, is amended to read as follows:

26 (b) In making contracts under this section, the commission
27 shall ensure that each regional planning commission receives
28 money for 9-1-1 service in three ~~two~~ separately computed
29 amounts as provided by this subsection. The commission must
30 provide each regional planning commission with:

31 (1) an amount of money equal to the total of the

1 revenue from the emergency service fees collected under Section
2 771.071 that is deposited in the treasury and appropriated to
3 the commission multiplied by a fraction, the numerator of which
4 is the amount of those fees collected from the region and the
5 denominator of which is the total amount of those fees collected
6 in this state; ~~and~~

7 (2) an amount of money equal to the total of the
8 revenue from the emergency service fee for wireless
9 telecommunications connections under Section 771.0711 that is
10 deposited in the treasury and appropriated to the commission
11 multiplied by a fraction, the numerator of which is the
12 population of the region and the denominator of which is the
13 population of this state; and

14 (3) an amount of money equal to the total of the
15 revenue from the prepaid wireless 9-1-1 emergency services fee
16 under Section 771.082 that is deposited in the treasury and
17 appropriated to the commission multiplied by a fraction, the
18 numerator of which is the population of the region and the
19 denominator of which is the population of this state.

20 SECTION _____. Subsection (b), Section 771.079, Health and
21 Safety Code, is amended to read as follows:

22 (b) The account consists of:

23 (1) fees deposited in the fund as provided by
24 Sections 771.071, ~~and~~ 771.0711, and 771.082; and

25 (2) notwithstanding Section 404.071, Government Code,
26 all interest attributable to money held in the account.

27 SECTION _____. Chapter 771, Health and Safety Code, is
28 amended by adding Subchapter D-1 to read as follows:

29 SUBCHAPTER D-1. PREPAID WIRELESS 9-1-1 EMERGENCY SERVICES FEE

30 Sec. 771.081. DEFINITIONS. In this subchapter:

31 (1) "Consumer" means a person who purchases prepaid

1 wireless telecommunications service in a retail transaction.

2 (2) "Prepaid wireless 9-1-1 emergency services fee"
3 means the fee a seller collects from a consumer in the amount
4 required under Section 771.082.

5 (3) "Prepaid wireless telecommunications service"
6 means a wireless telecommunications service that allows a caller
7 to access 9-1-1 emergency communications services that is paid
8 for in advance at the time of purchase and that is sold:

9 (A) in predetermined units or dollars, the
10 number of which declines with use in a known amount; or

11 (B) on a time period basis.

12 (4) "Retail transaction" means an individual purchase
13 of a prepaid wireless telecommunications service from a seller
14 for any purpose other than resale.

15 (5) "Seller" means a person who sells prepaid
16 wireless telecommunications service to any person. The term
17 includes "seller" and "retailer" as defined by Section 151.008,
18 Tax Code.

19 (6) "Wireless telecommunications service" means
20 commercial mobile radio service as defined by 47 C.F.R. Section
21 20.3.

22 Sec. 771.082. PREPAID WIRELESS 9-1-1 EMERGENCY SERVICES

23 FEE. (a) A prepaid wireless 9-1-1 emergency services fee shall
24 be collected by the seller from the consumer at the time of and
25 with respect to each retail transaction of prepaid wireless
26 telecommunications service occurring in this state. The amount
27 of the prepaid wireless 9-1-1 emergency services fee shall be
28 either separately stated on an invoice, receipt, or other
29 similar document that is provided to the consumer by the seller,
30 or otherwise disclosed to the consumer by the seller.

31 (b) The prepaid wireless 9-1-1 emergency services fee is

1 two percent of the cost of each prepaid wireless
2 telecommunications service purchased, regardless of whether the
3 service was purchased in person, by telephone, through the
4 Internet, or by any other method. Each service purchased is a
5 separate item for purposes of calculating a fee under this
6 subsection.

7 (c) For purposes of Subsection (a), a retail transaction
8 that is effected in person by a consumer at a business location
9 of the seller shall be treated as occurring in this state if
10 that business location is in this state. Any other retail
11 transaction, including a transaction over the Internet or via
12 telecommunications service, shall be treated as occurring in
13 this state for purposes of Subsection (a) if the transaction
14 would be treated as occurring in this state under Section
15 151.061, Tax Code.

16 (d) The prepaid wireless 9-1-1 emergency services fee is
17 the liability of the consumer and not of the seller or of any
18 provider, except that the seller shall be liable to remit all
19 prepaid wireless service fees that the seller collects from
20 consumers as provided by Section 771.084, including all such
21 charges that the seller is deemed to collect where the amount of
22 the charge has not been separately stated on an invoice,
23 receipt, or other similar document provided to the consumer by
24 the seller.

25 (e) The fee imposed under this subchapter is in addition
26 to the taxes imposed under Chapter 151, Tax Code.

27 (f) The amount of the prepaid wireless 9-1-1 emergency
28 services fee that is collected by a seller from a consumer,
29 whether or not such amount is separately stated on an invoice,
30 receipt, or other similar document provided to the consumer by
31 the seller, shall not be included in the base for measuring any

1 tax, fee, surcharge, or other charge that is imposed by this
2 state, any political subdivision of this state, or any
3 intergovernmental agency.

4 (g) A seller may deduct and retain one percent of prepaid
5 wireless 9-1-1 emergency services fees that it collects to
6 offset its costs in administering this fee.

7 Sec. 771.083. EXCEPTIONS TO APPLICABILITY OF CHAPTER AND
8 LIMITATIONS OF LIABILITY. (a) The comptroller shall establish
9 procedures for a seller to document that a sale is not a retail
10 transaction under this subchapter. The procedures shall
11 substantially conform to procedures for documenting a sale for
12 resale under Chapter 151, Tax Code.

13 (b) A provider or seller of prepaid wireless
14 telecommunications service is not liable for damages to any
15 person resulting from or incurred in connection with the
16 provision of, or the failure to provide, 9-1-1 emergency
17 service, or for identifying or failing to identify the telephone
18 number, address, location, or name associated with any person or
19 device that is accessing or attempting to access 9-1-1 emergency
20 service, unless the act or omission proximately causing the
21 claim, damage, or loss constitutes gross negligence,
22 recklessness, or intentional misconduct.

23 (c) A provider or seller of prepaid wireless
24 telecommunications service is not liable for damages to any
25 person resulting from or incurred in connection with the
26 provision of any lawful assistance to any investigative or law
27 enforcement officer of the United States, this or any other
28 state, or any political subdivision of this or any other state
29 in connection with any lawful investigation or other law
30 enforcement activity by such investigative or law enforcement
31 officer unless the act or omission proximately causing the

1 claim, damage, or loss constitutes gross negligence,
2 recklessness, or intentional misconduct.

3 (d) Information that a provider or seller of prepaid
4 wireless telecommunications service is required to furnish to a
5 governmental entity in providing or selling 9-1-1 emergency
6 service is confidential and exempt from disclosure under Chapter
7 552, Government Code. A provider or seller of prepaid wireless
8 telecommunications service is not liable to any person who uses
9 a 9-1-1 emergency service created under this chapter for the
10 release of information furnished by the provider or seller of
11 prepaid wireless telecommunications service in providing or
12 selling 9-1-1 emergency service. Information that is
13 confidential under this section may be released only for
14 budgetary calculation purposes and only in aggregate form so
15 that no provider-specific or seller-specific information may be
16 extrapolated.

17 (e) In addition to the exemption from liability provided
18 by Subsections (b), (c), and (d), each provider and seller of
19 prepaid wireless telecommunications service is entitled to any
20 other exemption from liability under this chapter, if any, that
21 is provided to wireless service providers.

22 Sec. 771.084. APPLICATION OF PROVISIONS OF TAX CODE.

23 Except as otherwise provided by this subchapter:

24 (1) the fee imposed by this subchapter is
25 administered, imposed, collected, and enforced in the same
26 manner as a tax under Chapter 151, Tax Code, is administered,
27 imposed, collected, and enforced; and

28 (2) the provisions applicable to the sales tax
29 imposed under Subchapter C, Chapter 151, Tax Code, apply to the
30 fee imposed by this subchapter.

31 Sec. 771.085. ALLOCATION OF FEE. (a) After deducting an

1 amount not greater than 10 percent of collected charges, as
2 determined under Subsection (c), the comptroller shall deposit
3 the money from the fees imposed by this subchapter, other than
4 penalties and interest, to the credit of the 9-1-1 services fee
5 account in the general revenue fund. Until deposited to the
6 credit of the 9-1-1 services fee account as required by
7 Subsection (b), money the comptroller collects under this
8 subchapter remains in a trust fund with the state treasury.

9 (b) Money collected under this subchapter may be used only
10 for services related to 9-1-1 and emergency services, including
11 automatic number identification and automatic location
12 information services. Not later than the 15th day after the
13 last day of the month in which the money is collected, the
14 commission shall distribute to each emergency communication
15 district that does not participate in the state system a portion
16 of the money that bears the same proportion to the total amount
17 collected that the population in the area served by the district
18 bears to the population of the state. The remaining money
19 collected under this subchapter shall be deposited to the 9-1-1
20 services fee account in the general revenue fund.

21 (c) The commission shall annually determine by rule the
22 percentage of collected charges, not to exceed 10 percent, that
23 under Subsection (a) shall be deducted by the comptroller and
24 allocated as if collected under Section 771.072.

25 Sec. 771.086. EXCLUSIVITY AND APPLICABILITY OF PREPAID
26 WIRELESS 9-1-1 EMERGENCY SERVICES FEE. (a) The prepaid
27 wireless emergency services fee shall be the only 9-1-1 funding
28 obligation imposed with respect to prepaid wireless
29 telecommunications service in this state, and no tax, fee,
30 surcharge, or other charge shall be imposed by this state, any
31 political subdivision of this state, or any intergovernmental

1 agency, for 9-1-1 funding purposes, on any provider, seller, or
2 consumer with respect to the sale, purchase, use, or provision
3 of prepaid wireless telecommunications service.

4 (b) The emergency service fee for wireless
5 telecommunications connections under Section 771.0711 applies to
6 wireless telecommunications service that is not subject to the
7 prepaid wireless 9-1-1 emergency services fee under this
8 subchapter.

9 SECTION _____. This Act takes effect January 1, 2010.

10

ADOPTED

FLOOR AMENDMENT NO. 12 MAY 23 2009

BY: J. J. Arriaga

1 Amend amendment No. 11 ^{Atalay Spaul}
Secretary of the Senate by Senator VDP to H.B. No. 1821

2 by striking proposed Subsection (g) to Section 771.082, Health
3 and Safety Code, and substituting the following:

4 (g) A seller may deduct and retain two percent of prepaid
5 wireless 9-1-1 emergency services fees that it collects to
6 offset its costs in administering the collection and remittance
7 of this fee.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 19, 2009

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

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.), **Committee Report 2nd 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 Code relating to disaster preparedness and emergency management.

Two sections of the bill would address the disaster contingency fund. Sections 1.08 and 1.16 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.

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 1.16 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 cannot be determined.

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. 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:

LBB Staff: JOB, KJG, GG, LG, KK

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 4, 2009

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

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

IN RE: HB1831 by Corte (Relating to emergency management and disaster recovery.), As
Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code, Chapter 418 requiring the Governor's Division of Emergency Management (GDEM) to develop an annex to the state emergency management plan that addresses initial response planning for providing essential population support supplies, equipment, and services during the first 120 hours immediately following a disaster. The bill states GDEM must also include in the annex for state emergency plan provisions to provide emergency power to restore or continue the operation of critical water or waste water facilities following a disaster.

The bill would add Chapter 397 to the Finance Code to require a mortgage servicer holding money for more than 10 business days that is received from an insurance provider for repairs to a mortgagee's property following a disaster declared under Section 418.014 of the Government Code to pay interest to the mortgagee.

The bill would take effect on September 1, 2009.

The Commission on Environmental Quality and the Department of Public Safety anticipate no significant fiscal impact to their agencies.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 582 Commission on Environmental Quality, 301 Office of the Governor, 477 Commission on State Emergency Communications

LBB Staff: JOB, KJG, KK, GG, LG, MS, LCO, BTA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 3, 2009

TO: Honorable Frank Corte Jr., Chair, House Committee on Defense & Veterans' Affairs

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

IN RE: HB1831 by Corte (relating to emergency management.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code, Chapter 418 requiring the Governor's Division of Emergency Management (GDEM) to develop an annex to the state emergency management plan that addresses initial response planning for providing essential population support supplies, equipment, and services during the first 120 hours immediately following a disaster. The bill states GDEM must also include in the annex for state emergency plan provisions to provide emergency power to restore or continue the operation of critical water or waste water facilities following a disaster. The bill would take effect on September 1, 2009.

The Commission on Environmental Quality and the Department of Public Safety anticipate no significant fiscal impact to their agencies.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 582 Commission on Environmental Quality, 301 Office of the Governor, 477 Commission on State Emergency Communications

LBB Staff: JOB, KK, GG, LG, MS, LCO, BTA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 17, 2009

TO: Honorable Frank Corte, Jr., Chair, House Committee on Defense & Veterans' Affairs

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

IN RE: HB1831 by Corte (Relating to emergency management.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1831, As Introduced: a negative impact of (\$195,723) 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	(\$108,109)
2011	(\$87,614)
2012	(\$87,614)
2013	(\$87,614)
2014	(\$87,614)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$108,109)	1.0
2011	(\$87,614)	1.0
2012	(\$87,614)	1.0
2013	(\$87,614)	1.0
2014	(\$87,614)	1.0

Fiscal Analysis

HB 1831 as introduced would amend Chapter 418 of the Government Code pertaining to emergency management and Chapter 771 of the Health and Safety Code pertaining to state administration of emergency communications. The following provisions of the bill would have fiscal impacts:

The bill would require the emergency management council to assist the Governor's Division of Emergency Management (GDEM) in identifying, mobilizing, and deploying state resources to respond to major emergencies and disasters.

The bill would allow the GDEM to organize and temporarily activate disaster reservists to support recovery operations in the aftermath of a disaster or major emergency and pay them at a daily rate commensurate with their qualifications and experience.

The bill would require the Commission on State Emergency Communications (CSEC) to provide education to local officials on the operation of the Emergency Alert System.

The bill would also abolish the Disaster Emergency Funding Board on September 1, 2009 by repealing Government Code, Section 418.072.

The bill would take effect on September 1, 2009.

Methodology

Based on the analysis of the Department of Public Safety, no significant fiscal impact is anticipated. The Department anticipates that the costs associated with the bill's provisions could be absorbed within existing resources.

The anticipated cost for the CSEC to implement the provisions of Section 11 of the bill, requiring the CSEC to provide education for local officials on the operation of the Emergency Alert System, includes one additional FTE – a Training Specialist V. The Specialist would conduct training workshops at two of the quarterly meetings held at each of the twenty-four regional planning councils.

Included in costs are expenses related to travel. Calculations apply current maximum travel reimbursement rates for lodging, meals and mileage and include costs for airfare and vehicle rental in instances where necessary.

General Revenue would fund this position and related expenses. Currently, the agency does not receive appropriations from General Revenue. The majority of the agency's budget is funded through two General Revenue Dedicated accounts, Account 5007 (Equalization Surcharge) and Account 5050 (9-1-1 Service Fees). However, neither account under current statute may be used by the CSEC for expenses unrelated to the provision of 9-1-1 telecommunication services or poison centers.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor, 405 Department of Public Safety, 477 Commission on State Emergency Communications

LBB Staff: JOB, KK, MS, LCO, BTA