

BILL ANALYSIS

C.S.H.B. 1765
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the technology used to notify the public on certain roadways of an emergency declaration or situation is antiquated and inefficient. C.S.H.B. 1765 seeks to establish an emergency information network of digital display signs located on certain highways in Texas to more efficiently notify the public of emergency situations.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Division of Emergency Management in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1765 amends the Government Code to require the Texas Division of Emergency Management to coordinate with the Texas Department of Transportation (TxDOT) to implement an emergency information network along highways that are designated evacuation routes and highways in urban areas that are adjacent to designated evacuation routes. The bill requires a digital display that is part of the emergency information network to be located only within the corporate limits or extraterritorial jurisdiction of a municipality.

C.S.H.B. 1765 requires the emergency information network to be able to display local public health and public safety alerts, to display the most currently available information and relevant digital images regarding the availability of fuel, food, lodging, and 24-hour pharmacy services located along the applicable designated highways, and to disseminate the alerts and information to each applicable digital display in the network. The bill requires the digital displays to be installed in a sufficient number and located in sufficiently high population and high traffic areas to ensure the emergency information network disseminates information to the maximum number of motorists. The bill prohibits a digital display from being located in a residential neighborhood or along a highway that is designated as a scenic byway.

C.S.H.B. 1765 requires the division, through competitive bidding, to contract with a person to implement the emergency information network at no cost to the state and requires the contract to include terms that require the contractor to erect and maintain new digital displays on private property along the applicable highways and in the applicable areas; to display the local public health and public safety alerts; to collect the required information regarding the availability of fuel, food, lodging, and 24-hour pharmacy services; and to display that information on digital displays. The bill requires a contractor, before the contractor may erect a digital display, to obtain consent, in writing, from the emergency management director for the municipality in which the display is to be erected and from the person who owns the property on which the display is to be erected.

C.S.H.B. 1765 authorizes the contractor, if an authorized digital display is not being used to display the alerts and emergency management information required under the bill's provisions, to display commercial digital messages, charge the prevailing market rate for displaying such

messages, and retain the prevailing market rate for displaying such messages. The bill requires the contractor, not later than January 31 of each year, to pay a total of five percent of the gross revenue generated from each digital display during the preceding year as follows: two and one-half percent to the comptroller of public accounts for deposit in the general revenue fund and two and one-half percent to the municipality in whose corporate limits or extraterritorial jurisdiction the digital display is located. The bill requires the emergency information network to be operated to maximize those payments.

C.S.H.B. 1765 requires the division, after the expiration of the contract and if the division does not award the contractor a contract to continue operating the emergency information network, to order the contractor to remove the digital displays at the sole expense of the contractor or convey the digital displays to a person who is awarded a contract to operate the emergency information network. The bill requires the person who is awarded the contract under such a conveyance to agree to indemnify the contractor and pay the contractor for the digital displays. The bill requires the cost for the digital displays to be determined according to a formula negotiated in the contract. The bill makes the contractor responsible for the entire cost of moving the display if the construction of a highway requires a digital display to be moved.

C.S.H.B. 1765 provides that the location and erection of an authorized digital display is governed only by federal law and the bill's provisions relating to the emergency information network and authorizes the division to adopt rules to implement the bill's provisions relating to the network. The bill requires the division to implement the emergency information network using existing resources.

C.S.H.B. 1765 requires the division, with the cooperation of TxDOT and emergency management directors, to develop and implement a system for municipalities and counties to issue local public health and public safety alerts through the division's emergency information network implemented under the bill's provisions and authorizes the alerts to include AMBER alerts or other alerts issued under the AMBER alert system; silver alerts for missing senior citizens; blue alerts issued under an executive order; homeland security alerts; and emergency public service messages provided to motorists during a severe weather advisory, during an evacuation that has been ordered or recommended, or following a declaration of a state of disaster.

C.S.H.B. 1765 requires the division to coordinate the local public health and public safety alert system and to adopt standards as necessary to ensure proper implementation of the alert system. The bill requires that the standards address certain procedures that are to be used by a health authority, local law enforcement agency, individual, or entity in response to a threat to public health or public safety. The bill requires the division to prescribe forms for use by an emergency management director for a municipality or county in requesting activation of the alert system.

C.S.H.B. 1765 requires the division to cooperate with TxDOT and emergency management directors and assist in developing and implementing the alert system and to establish a plan for providing relevant information to the public in affected areas of Texas through the division's emergency information network. The bill authorizes an emergency management director to notify the Department of Public Safety if the emergency management director receives notice from a health authority of a verified threat to public health within the health authority's jurisdiction or notice from a local law enforcement agency of a verified threat to public safety within the agency's jurisdiction. The bill requires the emergency management director to determine that the information provided by a health authority or a local law enforcement agency poses a credible threat to the municipality or county.

C.S.H.B. 1765 requires the division to activate the local public health and public safety alert system and notify appropriate participants in the alert system on the request of an emergency management director. The bill requires the division to send the alert to designated media outlets in the area affected by the public health or public safety threat and authorizes a participating

media outlet to issue the alert at designated intervals following receipt of the alert from the division. The bill requires a local public health or public safety alert to include all appropriate information that is provided by the emergency management director and information on whom an individual in the affected area can contact for more information. The bill requires the division to terminate any activation of the alert with respect to a local public health or public safety threat not later than the earlier of the time at which the local public health or public safety threat is resolved or the notification period ends, as determined by standards adopted by the division. The bill requires an emergency management director that requests activation of the alert system to notify the division as soon as possible that the local public health or public safety threat is resolved.

C.S.H.B. 1765 requires the division to ensure the emergency information network is functionally operational no later than June 30, 2012.

C.S.H.B. 1765 defines "contractor," "digital display," "emergency information network," and "emergency management director." The bill provides for the meaning of "health authority" by reference to the Health and Safety Code.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1765 differs from the original by defining "digital display" to mean an electronic display that, in addition to other requirements, measures for each display at least 288 square feet and not more than 672 square feet, whereas the original requires each display to measure at least 600 square feet.

C.S.H.B. 1765 differs from the original by requiring the Texas Division of Emergency Management to coordinate with the Texas Department of Transportation (TxDOT) to implement an emergency information network along highways that are designated evacuation routes and highways in urban areas that are adjacent to designated evacuation routes, whereas the original requires the network to be along designated high traffic evacuation routes and highways in metropolitan areas located within 50 miles of a designated evacuation route.

C.S.H.B. 1765 differs from the original by requiring an emergency information network to display the most currently available information and relevant images regarding certain services, whereas the original requires such a network to display real-time information and images regarding those services. The substitute omits a specification contained in the original, in the requirement that the emergency information network disseminate certain information to each digital display in the network, that the network quickly disseminate the information.

C.S.H.B. 1765 omits a provision contained in the original requiring the emergency information network to include at least 200 digital displays and, to the extent possible, use double-sided digital displays. The substitute contains a provision not included in the original prohibiting a digital display from being located in a residential neighborhood or along a highway that is designated as a scenic byway.

C.S.H.B. 1765 contains provisions not included in the original, in the provision requiring a contract for the implementation of the emergency information network to include terms that require the contractor to take certain actions, requiring the terms to require the contractor to erect and maintain new digital displays on certain private property and in certain high population and high traffic areas.

C.S.H.B. 1765 contains a provision not included in the original requiring the contractor, before

erecting a digital display, to obtain written consent from the emergency management director for the municipality in which the display is to be erected.

C.S.H.B. 1765 differs from the original by requiring the contractor to annually pay a total of five percent of the gross revenue generated from each digital display during the preceding year with two and one-half percent allocated to the comptroller of public accounts for deposit in the general revenue fund and two and one-half percent allocated to the municipality in whose corporate limits or extraterritorial jurisdiction the digital display is located, whereas the original requires the contractor to annually pay a total of two and one-half percent of that generated gross revenue to those entities and does not specify the amounts allocated to each entity. The substitute differs from the original by requiring the emergency information network to be operated to maximize those payments, whereas the original requires the contractor to operate the network to maximize those payments.

C.S.H.B. 1765 omits a provision contained in the original authorizing the contractor to continue to maintain the digital displays erected by the contractor if the contractor continues to display the required local public health and public safety alerts and make the required payments. The substitute contains a provision not included in the original requiring the division, after the expiration of the contract and if the division does not award the contractor a contract to continue operating the emergency information network, to order the contractor to remove the digital displays at the sole expense of the contractor or convey the digital displays to a person who is awarded a contract to operate the emergency information network.

C.S.H.B. 1765 contains provisions not included in the original requiring the person who is awarded the contract under a conveyance to agree to indemnify the contractor and pay the contractor for the digital displays and requiring the cost for the digital displays to be determined according to a formula negotiated in the contract. The substitute contains a provision not included in the original making the contractor responsible for the entire cost of moving the display if the construction of a highway requires a digital display to be moved.

C.S.H.B. 1765 differs from the original by requiring the division to ensure the network is functionally operational by June 30, 2012, whereas the original requires the division to ensure that the network is functionally operational with at least 50 digital displays installed no later than that date. The substitute differs from the original in nonsubstantive ways.