

## **BILL ANALYSIS**

C.S.H.B. 3324  
By: McClendon  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties observe that the current duties of the Texas Fusion Center include promoting emergency preparedness, analyzing information and assessing threats, issuing public warnings relating to homeland security emergencies, and facilitating cooperative emergency response and recovery efforts in the event of such an emergency. C.S.H.B. 3324 seeks to introduce more uniformity, security, and consistency among fusion centers in Texas.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTION 5 of this bill.

### **ANALYSIS**

C.S.H.B. 3324 amends the Government Code to include among the Texas Fusion Center's duties the making of recommendations to the Department of Public Safety (DPS) regarding the monitoring of fusion centers operating in Texas and regarding the functions of the Texas Fusion Center Policy Council created under the bill's provisions. The bill requires DPS to create the Texas Fusion Center Policy Council and the bylaws for the council to assist DPS in monitoring fusion center activities in Texas. The bill establishes that the policy council is composed of one executive representative from each recognized fusion center operating in Texas. The bill requires the policy council to do the following: develop and disseminate strategies to facilitate the implementation of applicable federal standards and programs on a statewide basis by each fusion center operating in Texas, expand and enhance the statewide intelligence capacity to reduce the threat of terrorism and criminal enterprises, and continuously review critical issues pertaining to homeland security activities; establish a privacy advisory group, with at least one member who is a privacy advocate, to advise the policy council and to meet at the direction of the policy council; and recommend best practices for each fusion center operating in Texas, including best practices to ensure that the center adheres to state and federal laws designed to protect privacy and other legal rights of individuals and best practices for the smooth exchange of information among all fusion centers operating in Texas.

C.S.H.B. 3324 requires DPS, after considering the recommendations of the Texas Fusion Center and the policy council, to adopt rules to govern the operations of fusion centers in Texas, including guidelines to do the following: establish a common concept of operations for any fusion center operating in Texas, in order to provide clear baseline standards for each aspect of the center's activities; inform and define the monitoring of those activities by the policy council; and ensure that any fusion center operating in Texas adheres to state and federal laws designed to protect privacy and the other legal rights of individuals, including laws that provide clear standards for the treatment of intelligence and for the collection and storage of noncriminal information, personally identifiable information, and protected health information. The bill authorizes DPS to require that a fusion center audited under applicable DPS rules pay any costs incurred by the policy council in relation to the audit. The bill prohibits a member of the policy council from receiving compensation but entitles a member to reimbursement for the member's

travel expenses as provided by the Travel Regulations Act and the General Appropriations Act. The bill prohibits a fusion center from receiving state grant money if the center adopts a rule, order, ordinance, or policy under which the center fails or refuses to comply with rules adopted by DPS, beginning with the first state fiscal year occurring after the center adopts the rule, order, ordinance, or policy.

C.S.H.B. 3324 requires the policy council to annually submit to the governor and to each house of the legislature a report that contains, with respect to the preceding year, the council's progress in developing and coordinating the statewide fusion effort and intelligence network described by the governor's homeland security strategy, the progress made by fusion centers operating in Texas in meeting the fusion center guidelines developed under federal law, and a summary of fusion center audits or review conducted under applicable rules adopted by DPS.

C.S.H.B. 3324 defines "fusion center," "intelligence," and "recognized fusion center." The bill makes nonsubstantive changes to reflect the name change of the Texas Infrastructure Protection Communications Center to the Texas Fusion Center.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 3324 contains provisions not included in the original defining "fusion center," "intelligence," and "recognized fusion center."

C.S.H.B. 3324 differs from the original by including among the Texas Fusion Center's duties the making of recommendations to DPS regarding the monitoring of fusion centers operating in Texas, rather than the monitoring of fusion centers and other criminal intelligence systems operating in Texas, as in the original. The substitute omits provisions included in the original authorizing the center to use any available revenue and to solicit and accept gifts, grants, and donations for the purposes of discharging its powers and duties and requiring the center to use any gifts, grants, and donations received for those purposes before using other revenue.

C.S.H.B. 3324 differs from the original by requiring DPS to adopt rules to govern the operations of fusion centers in Texas after considering the recommendations of the Texas Fusion Center and the Texas Fusion Center Policy Council, whereas the original requires DPS to adopt rules to govern the operations of fusion centers and other criminal intelligence systems in Texas after considering the recommendations of the center. The substitute differs from the original by requiring the DPS adopted rules to include guidelines establishing a common concept of operations for any fusion center operating in Texas in order to provide clear baseline standards for each aspect of the center's activities, rather than for any criminal intelligence systems operating in Texas in order to provide clear standards for each aspect of their activities, as in the original. The substitute contains a provision not included in the original requiring the DPS rules to include guidelines to ensure that any Texas fusion center adheres to state and federal laws designed to protect privacy and the other legal rights of individuals.

C.S.H.B. 3324 differs from the original by requiring DPS to create the Texas Fusion Center Policy Council and the bylaws for the council to assist DPS in monitoring fusion center activities in Texas, whereas the original requires DPS to create the council to assist DPS in monitoring the activities of fusion centers and other criminal intelligence systems operating in Texas. The substitute differs from the original by specifying that the policy council is composed of one executive representative from each recognized fusion center operating in Texas, rather than one representative from each regional fusion center operating in Texas, as in the original.

C.S.H.B. 3324 differs from the original by requiring the policy council to develop and

disseminate strategies to facilitate the implementation of applicable federal standards and programs on a statewide basis by each fusion center operating in Texas, rather than by each criminal intelligence system operating in Texas, as in the original. The substitute omits a provision included in the original requiring the policy council, on behalf of DPS and subject to the department's control, to monitor the implementation of the department's common concept of operations by each criminal intelligence system operating in Texas and perform audits.

C.S.H.B. 3324 contains provisions not included in the original requiring the policy council to develop and disseminate strategies to expand and enhance the statewide intelligence capacity to reduce the threat of terrorism and criminal enterprises and continuously review critical issues pertaining to homeland security activities, and to establish a privacy advisory group to advise the policy council. The substitute differs from the original by requiring the policy council to recommend best practices for each fusion center operating in Texas, rather than for the operations of each criminal intelligence system. The substitute contains a provision not included in the original requiring the policy council to recommend best practices for each fusion center to ensure that the center adheres to state and federal laws designed to protect privacy and the other legal rights of individuals. The substitute omits a provision not included in the original requiring the policy council to recommend best practices for the financial and budgetary operations of each criminal intelligence system.

C.S.H.B. 3324 differs from the original by authorizing DPS to require that a fusion center audited under applicable DPS rules pay any costs incurred by the policy council in relation to the audit, whereas the original authorizes DPS to require a criminal intelligence system audited to pay any such costs. The substitute contains a provision not included in the original prohibiting a policy council member from receiving compensation and entitling such a member to reimbursement for travel expenses as provided by the Travel Regulations Act and the General Appropriations Act. The substitute contains provisions not included in the original prohibiting a fusion center from receiving state grant money under certain circumstances. The substitute contains a provision not included in the original requiring the policy council to annually submit a report to the governor and to each house of the legislature containing certain information relating to the progress of the policy council and fusion centers and fusion center audits or reviews.

C.S.H.B. 3324 omits provisions included in the original governing criminal intelligence systems relating to definitions, circumstances under which reasonable suspicion relating to criminal activity or enterprise is established, conditions for treatment of intelligence data and noncriminal information, the prohibited collection of certain intelligence data and noncriminal information, the submission of a report regarding the collection of certain criminal information or intelligence to certain legislative committees, oversight of criminal intelligence systems, oversight boards, and limitations on disclosure of information. The substitute omits provisions included in the original redesignating certain Government Code provisions and making conforming changes related to that redesignation. The substitute differs from the original in nonsubstantive ways.