

## **BILL ANALYSIS**

Senate Research Center

H.B. 3  
By: Burrows (Birdwell)  
State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The COVID-19 pandemic and the actions taken by state and local government to respond to and attempt to mitigate the disaster have impacted almost every aspect of Texans' lives. H.B. 3 addresses executive and legislative response to certain disasters. The purpose of this legislation is to provide checks and balances to government when dealing with extraordinary circumstances.

H.B. 3 amends current law relating to state and local government responses to a pandemic disaster, including the establishment of the Pandemic Disaster Legislative Oversight Committee, and to in-person hospital visitation during a disaster.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the governor in SECTION 4 (Sections 418A.051 and 418A.103, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 61.003(6), Education Code, to redefine "other agency of higher education" for purposes of Chapter 61 (Texas Higher Education Coordinating Board) to include the Texas Epidemic Public Health Institute (institute) at The University of Texas (UT) Health Science Center at Houston (health science center).

SECTION 2. Amends Chapter 75, Education Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. TEXAS EPIDEMIC PUBLIC HEALTH INSTITUTE**

Sec. 75.301. DEFINITIONS. Defines "board," "health science center," and "institute."

Sec. 75.302. ESTABLISHMENT. Requires the board of regents of the UT System (board) to establish and maintain the institute at the health science center.

Sec. 75.303. ROLE AND SCOPE. Requires the institute to establish and maintain a public health reserve network of public health professionals, community health workers, state and local public health agencies, health care organizations, universities throughout the state, and other relevant entities and persons for the purpose of coordinating efforts to:

- (1) protect public health in this state;
- (2) support pandemic and epidemic disaster preparedness and response components of the state emergency management plan required by Section 418.042 (State Emergency Management Plan), Government Code; and
- (3) advise and make recommendations to the Pandemic Disaster Legislative Oversight Committee established under Chapter 329, Government Code.

Sec. 75.304. ADMINISTRATION. (a) Provides that the administration of the institute is under the direction of the chancellor of the UT System and the board through the president of the health science center.

(b) Requires the Department of State Health Services (DSHS) to provide the institute with access to relevant and timely data necessary for the institute to perform its duties.

Sec. 75.305. GIFTS, GRANTS, AND DONATIONS. Authorizes the institute to accept gifts, grants, and donations from any source for the purposes of the institute.

Sec. 75.306. INDEPENDENT FINANCIAL AUDIT FOR REVIEW BY COMPTROLLER. (a) Requires the institute biennially to commission an independent financial audit of its activities from a certified public accounting firm. Requires the institute to provide the audit to the Comptroller of Public Accounts of the State of Texas (comptroller).

(b) Requires the comptroller to review and evaluate the audit and biennially issue a public report of that review.

Sec. 75.307. APPROPRIATION CONTINGENCY. Provides that the board is required to implement a provision of this subchapter only if the legislature appropriates money specifically for that purpose. Authorizes, but does not require, the board, if the legislature does not appropriate money specifically for that purpose, to implement the provision using other money available to the board for that purpose.

SECTION 3. Amends Subtitle C, Title 3, Government Code, by adding Chapter 329, as follows:

#### CHAPTER 329. PANDEMIC DISASTER LEGISLATIVE OVERSIGHT COMMITTEE

Sec. 329.001. DEFINITIONS. Defines "committee" and "pandemic disaster."

Sec. 329.002. ESTABLISHMENT; COMPOSITION. (a) Provides that the Pandemic Disaster Legislative Oversight Committee (committee) is established to:

(1) consider the impact on this state and its residents of a state of pandemic disaster declared by the governor; and

(2) provide legislative oversight of pandemic disaster declarations.

(b) Sets forth the composition of the committee.

(c) Authorizes any member of the Texas Senate (senate) or the Texas House of Representatives (house), notwithstanding Subsection (b), to submit a written request to the joint chairs of the committee to participate in the committee's proceedings to the extent practical. Requires the joint chairs of the committee, when participation is not practical, to establish procedures for requesting members to audit proceedings and to provide to requesting members updates on committee proceedings.

Sec. 329.003. JOINT CHAIRS. Provides that the lieutenant governor and the speaker of the house serve as joint chairs of the committee.

Sec. 329.004. POWERS AND DUTIES. (a) Authorizes the committee to act only when the legislature is not convened in regular or special session.

(b) Provides that the committee is authorized to:

(1) review any state of pandemic disaster declaration issued by the governor under Chapter 418A that is in effect for more than 30 days following the governor's renewal of the declaration under that chapter;

(2) review proclamations, orders, or rules issued or adopted by the governor and any orders issued by a county or municipality for the pandemic disaster declaration; and

(3) terminate in accordance with Section 418A.055:

(A) the state of pandemic disaster; or

(B) provisions of proclamations, orders, or rules issued or adopted by the governor or orders issued by a county or municipality for the pandemic disaster declaration.

(c) Provides that, except as otherwise provided by this chapter, the committee has all other powers and duties provided to a special committee by:

(1) Subchapter B (Committees and Committee Procedure), Chapter 301 (Legislative Organization);

(2) the rules of the senate and house; and

(3) policies of the senate and house committees on administration.

Sec. 329.005. MEETINGS; QUORUM. (a) Requires the committee to meet at the call of the joint chairs.

(b) Requires the joint chairs to convene the committee on or as soon as practicable after the date a state of pandemic disaster is first renewed by the governor under Chapter 418A unless the legislature is convened in regular or special session.

(c) Provides that a majority of the members of the committee from each house constitutes a quorum to transact business. Authorizes termination of a state of pandemic disaster to only be ordered by a majority of the committee's membership. Authorizes the committee, if a quorum is present, to act on any other matter within its jurisdiction by a majority vote.

(d) Requires that notice of a meeting of the committee be posted at least five calendar days before the date of the meeting, in the same manner that meeting notices are posted for standing committees of the senate and house.

(e) Authorizes the committee, as an exception to Chapter 551 (Open Meetings) and other law, to meet by use of video conference call. Provides that this subsection applies for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a member of the committee to fully participate in a meeting of the committee. Provides that a meeting held by use of video conference call:

(1) is required to be open to the public, including by video broadcasting the meeting in real time through the Internet website of the senate or house;

(2) is required to specify in the meeting notice the link to the video broadcast described by Subdivision (1); and

(3) is required to provide for the entire meeting two-way video communication between all committee members attending the meeting and if, at any time, the two-way video communication link with a member

attending the meeting is disrupted, the meeting is prohibited from continuing until that link is reestablished.

SECTION 4. Amends Subtitle B, Title 4, Government Code, by adding Chapter 418A, as follows:

#### CHAPTER 418A. PANDEMIC EMERGENCY MANAGEMENT

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 418.001. SHORT TITLE. Authorizes this chapter to be cited as the Texas Pandemic Response Act.

Sec. 418A.002. PURPOSES. Provides that the purposes of this chapter are to:

- (1) protect and preserve individual liberties guaranteed under the United States Constitution and the Texas Constitution;
- (2) reduce the vulnerability of residents and communities in this state to damage, injury, and loss of life and property resulting from a pandemic disaster;
- (3) prepare for prompt and efficient care and treatment of persons victimized or threatened by a pandemic disaster;
- (4) maintain employment levels for state residents to the extent possible;
- (5) provide a setting conducive to the rapid and orderly restoration and rehabilitation of persons and property affected by a pandemic disaster;
- (6) clarify the roles of the governor, state agencies, the judicial branch of state government, and the political subdivisions of this state in the prevention of, preparation for, response to, and recovery from a pandemic disaster;
- (7) authorize and provide for cooperation in pandemic disaster mitigation, preparedness, response, and recovery;
- (8) authorize and coordinate activities relating to pandemic disaster mitigation, preparedness, response, and recovery by state agencies and officers and similar state-local, interstate, federal-state, and foreign activities in which this state and the political subdivisions of this state are authorized to participate;
- (9) provide an emergency management system addressing all aspects of pandemic preparedness and response; and
- (10) assist in the mitigation of pandemic disasters aggravated by inadequate planning for and regulation of public and private resources.

Sec. 418A.003. DEFINITIONS. Defines "division," "pandemic disaster," and "political subdivision."

Sec. 418A.004. LIMITATIONS. Provides that this chapter does not:

- (1) grant the governor authority to enact law;
- (2) expand the authority granted to the governor under Chapter 418 (Emergency Management);
- (3) limit the authority of the governor or the presiding officer of the governing body of a political subdivision to apply for, administer, or spend a grant, gift, or

payment in aid of pandemic disaster mitigation, preparedness, response, or recovery;

(4) interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws are authorized to be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(5) interfere with dissemination of news or comment on public affairs, provided any communications facility or organization, including radio and television stations, wire services, Internet and cellular services, and newspapers, are authorized to be requested to transmit or print public service messages providing information or instructions in connection with a pandemic disaster or potential pandemic disaster;

(6) affect the jurisdiction or responsibilities of a law enforcement agency, fire department, or unit of the armed forces of the United States, or any of their personnel when on active duty, if state, local, or interjurisdictional emergency management plans rely on the agencies, departments, or units to perform duties related to pandemic disasters;

(7) limit, modify, or abridge the authority of the governor to exercise any other power vested in the governor under the constitution or laws of this state independent of or in conjunction with any provision of this chapter;

(8) authorize the seizure or confiscation of any firearm or ammunition from an individual who is lawfully carrying or possessing the firearm or ammunition;

(9) authorize any person to prohibit or restrict the business operations of a firearms or ammunition manufacturer, distributor, wholesaler, supplier, or retailer or a sport shooting range, as defined by Section 250.001 (Restriction on Regulation of Sport Shooting Ranges), Local Government Code;

(10) affect the level of scrutiny for judicial review of constitutional violations;

(11) delegate to any governmental official the authority to modify election procedures;

(12) authorize any governmental official to mandate that an individual obtain a vaccination;

(13) create any new legal duty for a negligence claim or a new cause of action; or

(14) authorize any governmental official to force a business to close or limit the operating capacity or use of a business.

Sec. 418A.0045. LIMITATIONS ON MEDICAL PROCEDURES. (a) Defines "nonelective medical procedure."

(b) Prohibits the governor during a declared state of pandemic disaster from issuing an executive order, proclamation, or regulation that limits or prohibits a nonelective medical procedure.

(c) Authorizes the governor during a declared state of pandemic disaster to issue an executive order, proclamation, or regulation imposing a temporary limitation or prohibition on a medical procedure other than a nonelective medical procedure only if the limitation or prohibition is reasonably necessary to conserve resources for nonelective medical procedures or resources needed for disaster response. Prohibits an executive order, proclamation, or regulation issued under this

subsection from continuing for more than 15 days unless renewed by the governor.

(d) Provides that a person subject to an executive order, proclamation, or regulation issued under this section who in good faith acts or fails to act in accordance with that order, proclamation, or regulation is not civilly or criminally liable and is not subject to disciplinary action for that act or failure to act.

(e) Provides that the immunity provided by Subsection (d) is in addition to any other immunity or limitation of liability provided by law.

(f) Provides that, notwithstanding any other law, this section does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides the basis for a cause of action for an act or omission under this section.

Sec. 418.005. **APPLICABILITY OF OTHER LAW.** (a) Provides that the following provisions of Chapter 418 apply to a state of pandemic disaster declared under this chapter:

- (1) Subchapter C-1 (Disaster Recovery Loan Program);
- (2) Subchapter D (Finance);
- (3) Section 418.107 (Local Finance);
- (4) Section 418.1075 (Suspension of Deadlines Imposed by Local Law);
- (5) Section 418.108 (Declaration of Local Disaster);
- (6) Section 418.171 (Qualifications for Rendering Aid);
- (7) Section 418.1881 (Shelter Operations);
- (8) Section 418.1882 (Personnel Surge Capacity Planning);
- (9) Section 418.191 (Medical Special Needs Volunteers); and
- (10) Section 418.193 (Attorney General as Legal Advisor on Issues Related to Declared Disaster), as added by Chapter 70 (S.B. 416), Acts of the 86th Legislature, Regular Session, 2019.

(b) Provides that, notwithstanding Subsection (a)(5), the provisions of Section 418.108 apply to a state of pandemic disaster declared under this chapter only to the extent the local declaration is issued for the purposes of applying for, administering, or spending a grant, gift, or payment in aid of pandemic disaster mitigation, preparedness, response, or recovery.

Sec. 418A.006. **CONFLICT WITH OTHER LAW.** Provides that, to the extent of any conflict between this chapter and Chapter 418, this chapter controls.

Sec. 418A.007. **PROHIBITIONS.** (a) Prohibits the presiding officer of the governing body of a political subdivision from issuing an order during a declared state of pandemic disaster or local state of pandemic disaster that:

- (1) requires businesses or industries to close;
- (2) distinguishes between types of businesses or industries in limiting operation capacities; or

(3) restricts in-person visitation for residents of:

(A) nursing facilities, assisted living facilities, and intermediate care facilities for individuals with an intellectual disability that are licensed under Subtitle B (Licensing of Health Facilities), Title 4 (Health Facilities), Health and Safety Code; and

(B) state supported living centers, as defined by Section 531.002 (Definitions), Health and Safety Code.

(b) Prohibits the governor or the presiding officer of the governing body of a political subdivision from issuing an order during a declared state of pandemic disaster or local state of pandemic disaster that requires a public or private golf course to close.

(c) Prohibits the governor or the presiding officer of the governing body of a political subdivision from issuing an order during a declared state of pandemic disaster or local state of pandemic disaster that requires a state park to close.

Sec. 418A.0071. PROHIBITION ON CLOSURE OF PUBLIC BEACHES. Prohibits a governmental entity, including a political subdivision and state agency, during a declared state of pandemic disaster or local state of pandemic disaster, from issuing an order, promulgating a rule, adopting or enforcing a policy, or otherwise restricting access to or a means of accessing a public beach, as defined by Chapter 61 (Use and Maintenance of Public Beaches), Natural Resources Code.

Sec. 418A.008. CIVIL LIABILITY DURING PANDEMIC DISASTER. (a) Provides that Section 418.006 (Civil Liability) applies during a declared state of pandemic disaster.

(b) Provides that a business or an entity operating during a pandemic disaster in this state is not liable for an injury caused by exposing or potentially exposing an individual to a disease if on the date of the exposure or potential exposure:

(1) the business or entity is authorized to conduct business in this state;

(2) the business or entity made a reasonable effort to comply with applicable and controlling state and local laws, rules, ordinances, declarations, and proclamations related to the pandemic disaster; and

(3) the act or omission giving rise to the exposure or potential exposure was not wilful, reckless, or grossly negligent.

(c) Provides that a person who provides goods or renders services during a pandemic disaster in support of disaster response efforts and at the request of the governor or the governor's designee is not liable for an injury caused by the goods or services, regardless of the circumstances, provided the act or omission giving rise to the injury was not wilful, reckless, grossly negligent, or inconsistent with a limit specified in the governor's request.

(d) Provides that the immunity provided by this section is in addition to the immunity and limitations of liability provided by other law.

(e) Provides that this section does not create a civil cause of action.

(f) Provides that the immunity provided by this section applies to nursing facilities licensed under Chapter 242 (Convalescent and Nursing Facilities and Related Institutions), Health and Safety Code, only with respect to an act or omission that occurred before November 1, 2020.

## SUBCHAPTER B. POWERS AND DUTIES OF GOVERNOR

Sec. 418A.051. EXECUTIVE ORDERS, PROCLAMATIONS, AND RULES. (a) Authorizes the governor, subject to Section 418A.052, to issue, amend, or rescind an executive order, proclamation, or rule to further the purposes of this chapter.

(b) Provides that an executive order, proclamation, or rule issued by the governor under this chapter has the force and effect of law.

Sec. 418A.052. LIMITATION ON CERTAIN EXECUTIVE ORDERS, PROCLAMATIONS, AND RULES. (a) Provides that this section applies only to an executive order, proclamation, or rule issued under this chapter that has the effect of mandating the wearing of a face covering.

(b) Authorizes an executive order, proclamation, or rule described by Subsection (a) to continue for more than 30 days only if the governor during that period issues:

(1) a proclamation convening the legislature in special session that begins during that period to consider whether to modify or terminate the executive order, proclamation, or rule; or

(2) if the legislature is convened in regular or special session, a message to the legislature requesting the legislature's consideration of whether to modify or terminate the executive order, proclamation, or rule.

(c) Prohibits the governor from issuing a new executive order, proclamation, or rule based on the same or a substantially similar finding as a prior executive order, proclamation, or rule that was terminated by the legislature under Subsection (b).

Sec. 418A.053. LIMITATIONS ON AUTHORITY OF GOVERNOR. (a) Authorizes the governor, except as expressly provided by this chapter, to exercise the same authority the governor is granted under Subchapter B (Powers and Duties of Governor), Chapter 418, to address a declared state of pandemic disaster.

(b) Provides that the following provisions of Subchapter B, Chapter 418, do not apply during a declared state of pandemic disaster:

(1) Section 418.014 (Declaration of State of Disaster);

(2) Sections 418.016(b) (relating to providing that the disaster area specified by the declaration of a state of disaster is suspended to allow licensed or admitted insurance carriers or licensed agents acting on behalf of insurance carriers to erect temporary claims service signage), (c) (relating to temporary claims service sign size, height, and placement restrictions), and (d) (relating to requiring the insurance carrier or its licensed agents to remove the temporary claims service signage after 30 days or at the end of the declaration of disaster);

(3) Section 418.019 (Restricted Sale and Transportation of Materials);

(4) Section 418.0195 (Disconnection of State Computer Networks); and

(5) Section 418.023 (Clearance of Debris).

Sec. 418A.054. RELIGIOUS FREEDOM. Requires that actions taken under a declared state of pandemic disaster satisfy the religious freedom protections of Chapter 110 (Religious Freedom), Civil Practice and Remedies Code, and the Religious Freedom Restoration Act of 1993 (42 U.S.C. Section 2000bb et seq.).



Sec. 418A.055. DECLARATION OF STATE OF PANDEMIC DISASTER. (a) Authorizes the governor by executive order or proclamation to declare a state of pandemic disaster if the governor determines that a state of pandemic disaster is occurring in this state or that the occurrence or threat of a pandemic disaster is imminent.

(b) Provides that, subject to Subsections (c), (c-1), and (d), a state of pandemic disaster continues until the governor:

(1) determines that:

(A) the threat of a pandemic disaster has passed; or

(B) the pandemic disaster has been addressed to the extent that emergency conditions no longer exist; and

(2) terminates the state of pandemic disaster by executive order or proclamation.

(c) Prohibits a state of pandemic disaster from continuing for more than 30 days unless renewed by the governor. Authorizes the legislature by law, if the legislature is convened in regular or special session, to at any time terminate a declared state of pandemic disaster. Authorizes the committee established under Chapter 329, if the legislature is not convened in session, to at any time terminate:

(1) a state of pandemic disaster that is in effect for more than 30 days following the governor's renewal of the declaration; or

(2) provisions of proclamations, orders, or rules issued or adopted by the governor or of orders issued by a political subdivision for the pandemic disaster declaration described by Subdivision (1).

(c-1) Prohibits a state of pandemic disaster renewed by the governor under Subsection (c) from continuing unless, on or before the 90th day after the date the state of pandemic disaster is initially declared, the governor:

(1) if the legislature is convened in regular or special session, issues a message to the legislature requesting the legislature's consideration and determination, not later than the 30th day after the date the message is issued, of whether to modify or terminate the executive order or proclamation declaring the state of pandemic disaster; or

(2) if the legislature is not convened in regular or special session, issues a proclamation convening the legislature in a special session that begins not later than the 30th day after the date the proclamation is issued for the legislature to consider whether to modify or terminate the executive order or proclamation declaring the state of pandemic disaster.

(c-2) Requires the governor to provide notice of a proclamation convening the legislature under Subsection (c-1) not later than the 60th day after the state or pandemic disaster is initially declared.

(d) Prohibits the governor from declaring a new state of pandemic disaster based on the same or a substantially similar finding as a prior state of pandemic disaster that was terminated or not renewed by the legislature or to circumvent a meeting of the committee convened to review a state of pandemic disaster declaration.

(e) Requires the governor, on termination of a declared state of pandemic disaster or a provision of a proclamation, order, or rule by the legislature or the committee under this section, to issue an executive order ending the declared state of pandemic disaster or rescinding those provisions.

(f) Requires that an executive proclamation or order issued under this section:

(1) include:

- (A) a description of the nature of the pandemic disaster;
- (B) a designation of the areas affected or threatened; and
- (C) a description of the conditions that caused the pandemic disaster or allowed the termination of the pandemic disaster; and

(2) be posted on the Internet website of the governor and of any state agency affected by the proclamation or order.

(g) Requires the governor to:

(1) promptly disseminate a proclamation or order by any means intended to bring its contents to the attention of the public; and

(2) unless the circumstances related to the pandemic disaster prevent or impede the filing, promptly file the proclamation or order with:

- (A) the Texas Division of Emergency Management (TDEM);
- (B) the secretary of state; and
- (C) the county clerk or municipal secretary in each area in which the proclamation or order applies.

Sec. 418A.056. SALE AND TRANSPORTATION OF CERTAIN MATERIALS. Prohibits the sale, dispensing, or transportation of firearms and ammunition from being suspended or limited in response to a declared state of pandemic disaster.

#### SUBCHAPTER C. LOCAL AND INTERJURISDICTIONAL PANDEMIC EMERGENCY MANAGEMENT

Sec. 418A.101. PANDEMIC EMERGENCY MANAGEMENT DIRECTORS. (a) Provides that the presiding officer of the governing body of a political subdivision is designated as the pandemic emergency management director for that political subdivision.

(b) Provides that a pandemic emergency management director serves as the governor's designated agent in the administration and supervision of duties under this chapter. Requires a pandemic emergency management director to perform the duties prescribed by the emergency management plan and implement the state of pandemic proclamation and each executive order issued under this chapter.

(c) Authorizes a pandemic emergency management director to designate a person to serve as pandemic emergency management coordinator. Requires the pandemic emergency management coordinator to serve as an assistant to the pandemic emergency management director for pandemic emergency management purposes.

(d) Prohibits a person, other than a pandemic emergency management director, from seizing state or federal resources without prior authorization from TDEM or the state or federal agency responsible for those resources.

Sec. 418A.102. PREEMPTION. (a) Provides that any local order or rule issued in response to a state or local state of pandemic disaster is superseded and void to the extent

that it is inconsistent with proclamations, orders, or rules issued by the governor or DSHS.

(b) Provides that any order issued by a municipality in response to a state or local state of pandemic disaster is superseded and void to the extent that it is inconsistent with orders issued by the county judge of the county in which the municipality is located.

Sec. 418A.103. LIMITATION ON AD VALOREM TAX RATE OF CERTAIN POLITICAL SUBDIVISIONS. (a) Defines "no-new-revenue tax rate," "voter-approval tax rate," and "tax year."

(b) Provides that this section applies only to a political subdivision:

(1) the presiding officer of the governing body of which issues an order requiring the closure of a private business in response to a pandemic disaster; and

(2) for which the governor issues a written determination finding that the presiding officer of the governing body of the political subdivision has taken an action described by Subdivision (1).

(c) Prohibits the governing body of a political subdivision to which this section applies, notwithstanding Chapter 26 (Assessment), Tax Code, or any other law, from adopting an ad valorem tax rate for the current tax year that exceeds the lesser of the political subdivision's no-new-revenue tax rate or voter-approval tax rate for that tax year.

(d) Provides that, for purposes of making the calculation required under Section 26.013 (Unused Increment Rate), Tax Code, in a tax year in which this section applies to a political subdivision, the difference between the political subdivision's actual tax rate and voter-approval tax rate is considered to be zero.

(e) Provides that a political subdivision is no longer subject to the limitation prescribed by this section in the first tax year following the governor's rescission of the written determination issued under Subsection (b)(2).

(f) Requires the governor to adopt rules and procedures necessary to determine whether the presiding officer of a political subdivision has taken an action described by Subsection (b)(1).

#### SUBCHAPTER D. MISCELLANEOUS PROVISIONS

Sec. 418A.151. PERSONNEL SURGE CAPACITY PLANNING. Requires that personnel surge capacity planning conducted under this chapter for declared states of pandemic disaster include plans for providing personal protective equipment to physicians, other health care professionals, and pandemic disaster relief workers and volunteers.

Sec. 418A.152. EMERGENCY MANAGEMENT SYSTEM. Requires TDEM, in collaboration with other appropriate persons selected by TDEM, to:

(1) establish a statewide emergency management system to respond to a declared state of pandemic disaster;

(2) to the extent practicable include private wireless communication, Internet, and cable service providers in the system; and

(3) use the satellite communications equipment and mobile telephone towers of the participating providers under Subdivision (2) to assist in responding to a declared state of pandemic disaster.

SECTION 5. Amends Section 418.004(1), Government Code, to provide that the term "disaster" in Chapter 418 does not include a pandemic disaster as defined by Section 418A.003.

SECTION 6. Amends Section 418.005(b), Government Code, to require each person described by Subsection (a) (relating to providing that emergency management training applies to certain state employees in positions related to emergency management) to complete a course of training provided or approved by TDEM of not less than three hours regarding the responsibilities of state and local governments under Chapter 418A not later than the 180th day after the date the person takes certain actions.

SECTION 7. Amends Section 418.042(a), Government Code, to authorize the comprehensive state emergency management plan prepared and kept current by TDEM to include provisions for protecting public health. Makes nonsubstantive changes.

SECTION 8. (a) Amends Subchapter A, Chapter 241, Health and Safety Code, by adding Section 241.012, as follows:

Sec. 241.012. IN-PERSON HOSPITAL VISITATION DURING PERIOD OF DISASTER. (a) Defines "hospital," "qualifying official disaster order," "qualifying period of disaster," and "religious counselor."

(b) Prohibits a hospital during a qualifying period of disaster from prohibiting in-person visitation with a patient receiving care or treatment at the hospital unless federal law or a federal agency requires the hospital to prohibit in-person visitation during that period.

(c) Authorizes a hospital during a qualifying period of disaster, notwithstanding Subsection (b), to:

(1) restrict the number of visitors a patient receiving care or treatment at the hospital is authorized to receive to not fewer than one;

(2) require a visitor to the hospital to:

(A) complete a health screening before entering the hospital; and

(B) wear personal protective equipment at all times while visiting a patient at the hospital; and

(3) deny entry to or remove from the hospital's premises a visitor who fails or refuses to:

(A) submit to or meet the requirements of a health screening administered by the hospital; or

(B) wear personal protective equipment that meets the hospital's infection control and safety requirements in the manner prescribed by the hospital.

(d) Requires that a health screening administered by a hospital under this section be conducted in a manner that, at a minimum, complies with:

(1) hospital policy; and

(2) if applicable, guidance or directives issued by the Health and Human Services Commission, the Centers for Medicare and Medicaid Services, or another agency with regulatory authority over the hospital.

(e) Provides that, notwithstanding any other law, neither a hospital nor a physician providing health care services on the hospital's premises is subject to civil or criminal liability or an administrative penalty if a visitor contracts an infectious disease while on the hospital's premises during a qualifying period of disaster or, in connection with a visit to the hospital, spreads an infectious disease to any other individual, except where intentional misconduct or gross negligence by the hospital or the physician is shown. Provides that a physician who in good faith takes, or fails to take, an action under this section is not subject to civil or criminal liability or disciplinary action for the physician's action or failure to act under this section.

(f) Prohibits this section from being construed as requiring a hospital to:

(1) provide a specific type of personal protective equipment to a visitor to the hospital; or

(2) allow in-person visitation with a patient receiving care or treatment at the hospital if an attending physician determines that in-person visitation with that patient may lead to the transmission of an infectious agent that poses a serious community health risk.

(g) Provides that a determination made by an attending physician under Subsection (f)(2) is valid for not more than five days after the date the determination is made unless renewed by an attending physician.

(h) Requires the hospital, if a visitor to a hospital is denied in-person visitation with a patient receiving care or treatment at a hospital because of a determination made by an attending physician under Subsection (f)(2), to:

(1) provide each day a written or oral update of the patient's condition to the visitor if the visitor:

(A) is authorized by the patient to receive relevant health information regarding the patient;

(B) has authority to receive the patient's health information under an advance directive or medical power of attorney; or

(C) is otherwise the patient's surrogate decision-maker regarding the patient's health care needs under hospital policy and other applicable law; and

(2) notify the person who receives the daily update required under Subdivision (1) of the estimated date and time at which the patient will be discharged from the hospital.

(i) Prohibits a hospital, notwithstanding any other provision of this section, from prohibiting in-person visitation by a religious counselor with a patient who is receiving care or treatment at the hospital and who is seriously ill or dying for a reason other than the religious counselor's failure to comply with a requirement described by Subsection (c)(2).

(j) Provides that, in the event of a conflict between this section and any provision of a qualifying official disaster order, this section prevails.

(b) Provides that, notwithstanding any other provision of this Act, this section takes effect September 1, 2021.

SECTION 9. Makes application of Section 418A.0045, Government Code, as added by this Act, prospective.

SECTION 10. Provides that Section 418A.008, Government Code, as added by this Act, applies only to a cause of action that accrued on or after March 13, 2020. Provides that a cause of action that accrued before March 13, 2020, is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 11. Provides that, notwithstanding any other law, if this state receives from the federal government an amount of \$1 billion or more related to disaster or pandemic relief response after the governor has signed and the comptroller has certified S.B. No. 1, 87th Legislature, Regular Session, 2021 (the General Appropriations Act), or similar law, the expenditure of any of that money appropriated for the state fiscal biennium ending August 31, 2021, or for the state fiscal biennium beginning September 1, 2021, is contingent on the approval of that expenditure by the House Appropriations Committee and Senate Finance Committee in joint or separate hearings not later than 120 days after the enactment of the federal legislation authorizing the disbursement of the money. Prohibits federal money described by this section from being spent until the secretary of the senate and the chief clerk of the house certify to the comptroller that public hearings were held by those committees on the subject of the approval.

SECTION 12. Effective date: upon passage or September 1, 2021.