

BILL ANALYSIS

C.S.S.B. 437
By: Blanco
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

When COVID-19 cases spiked in March 2020 in the United States, the high demand and delayed imports of personal protective equipment (PPE) caused a shortage of PPE in Texas. Respirator masks, gloves, gowns, and other equipment were scarce and expensive, creating unsafe working conditions for essential personnel at hospitals and particularly nursing homes. The governor's 2022-2023 budget recommended the legislature address the critical storage need to ensure the future availability of PPE. However, the state lacks a dedicated body comprised of health care and emergency response personnel to oversee the state's management of PPE. C.S.S.B. 437 requires the Texas Division of Emergency Management to establish the Personal Protective Equipment Reserve Advisory Committee composed of various health care and essential personnel representatives in order to make recommendations to the division, which must also establish guidelines for PPE management.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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.S.B. 437 amends the Health and Safety Code to require the Texas Division of Emergency Management (TDEM) by rule to establish guidelines for the procurement, storage, and distribution of personal protective equipment (PPE). The bill prescribes a variety of matters the TDEM, at a minimum, must consider when adopting those rules. The bill prohibits the guidelines for PPE standards from being less protective or stringent than federal, state, or local guidelines on PPE.

C.S.S.B. 437 requires TDEM to establish the Personal Protective Equipment Advisory Committee, with members appointed by TDEM. The bill prescribes the composition of the 14-member advisory committee and requires the advisory committee to make recommendations to TDEM as necessary to develop the rules regarding PPE standards. The bill requires TDEM to consider the advisory committee's recommendations in adopting those rules, which must be adopted not later than September 1, 2022. The advisory committee is abolished and the bill's provisions relating to the advisory committee and to TDEM's duty to consider the committee's recommendations expire September 1, 2023.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 437 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions not in the engrossed that do the following:

- require TDEM by rule to establish guidelines for the procurement, storage, and distribution of PPE that may not be less protective or stringent than federal, state, or local guidelines on PPE;
- define "essential personnel," "health care worker," and "personal protective equipment"; and
- require TDEM to consider the advisory committee's recommendations in adopting rules for PPE guidelines.

The substitute changes the nature of the recommendations the advisory committee must make to TDEM from recommendations on procurements needed for a statewide PPE reserve, the storage of PPE in the reserve, and the distribution of PPE to health care workers and essential personnel, as in the engrossed, to recommendations on adopting rules for guidelines for the procurement, storage, and distribution of PPE. Accordingly, the substitute changes the name of the advisory committee from the Personal Protective Equipment Reserve Advisory Committee, as in the engrossed, to the Personal Protective Equipment Advisory Committee.

The substitute does not include a provision that appeared in the engrossed making the implementation of a bill provision by TDEM mandatory only if a specific appropriation is made for that purpose.